

Date issued: 23 April 2021

Freedom of Information Request

Dear ###,

We are writing in response to your Freedom of Information request. Your request has been considered in accordance with the requirements of the Freedom of Information Act and our information access policy.

You asked for the following information:

“An audio recording of pre-recorded announcements used onboard TFW class 158 units i.e. services from Birmingham to Pwllhelli and so on.”

Having reviewed your questions, we are able to provide the following information:

TfW does possess this information. However, this information is exempt from disclosure under section 38 (Health and Safety) and section 12 (cost of compliance exceeds appropriate limit) of the Freedom of Information Act.

Section 38 provides an exemption from disclosing information if it would endanger any individual. The exemption does not necessarily deal with issues that are commonly thought of as health and safety matters, and considers the mental and physical health of any individual in addition their safety.

To apply this exemption, a public authority must demonstrate that there is a causal link between the endangerment and the disclosure of the information. The public authority must also show that disclosure would be likely to have a detrimental effect on the mental health, physical health, and safety of the individual that must be more than trivial or insignificant. The use of this exemption is also subject to an assessment of the public interest.

As a public authority, TfW recognises the need for openness and transparency, as well as the degree of public interest concerning TfW announcements. However in this instance, this is outweighed by the risk to health and safety. For example, the recording could be used in a vexatious manner at a train station to contradict the announcements used by the Station Manager. This might cause passengers to rush to another incorrect platform and board the wrong train. This would cause significant distress to any passengers deceived in this way, and may also cause passengers to risk their safety by rushing to board the incorrect train on another platform in confusion or panic.

As such, it is TfW's belief that there is a clear, causal link between the endangerment of health and safety and the disclosure of this information. Further information about this exemption can be found [here](#).

Further to the Section 38 exemption, the cost of retrieving this information would also exceed the appropriate limit for processing a request as set out in Section 12 of the Freedom of Information Act. Further information about this exemption can be found [here](#).

Section 12 allows a public authority to refuse a request that would cost more than £600 to process, on the basis that it takes 24 hours of staff time at the standard rate of £25 per hour. The calculation of this cost can include:

- a. Determining whether the requested information is held;
- b. Locating and retrieving the information;
- c. Extracting the information.

Public authorities are only required to estimate whether the limit would be exceeded and there is no official requirement for Public authorities to include a breakdown of estimated costs. Our estimate includes the cost of obtaining both the English and Welsh recordings for across the entire TFW fleet of class 158 units, and then providing a mechanism to transfer the recordings. Amid the ongoing pandemic, retrieving this information would also redirect limited specialist resources and the attention of staff away from their core functions, who could be supporting other essential activity at this extraordinary time.

There are also copyright implications to consider, as there are royalties associated with the recordings provided by the voice artists, for the Welsh language recordings in particular. Exclusivity was agreed at the time of procurement in 2019 between TfW Rail Limited (formerly TfW Rail Services) and the supplier restricted the use of the Welsh language announcements to TfW Rail Limited only. In order to release the recordings, TfW would likely need to negotiate with the original supplier. However, in light of the application of both the section 12 and 38 exemptions, we have not approached the supplier to explore this.

As a public authority, TfW recognises the need for openness and transparency, as well as the degree of public interest concerning TfW announcements. Yet as our response illustrates, responding to a request of this nature is multifaceted and complex. Whilst we note that similar requests made to other train operating companies have been successful, numerous examples of similar requests which were unsuccessful can also be found on the 'whatdotheyknow' website, especially during the ongoing pandemic. TfW cannot comment on decisions made by other Train Operating Companies to provide or not to provide this information.

TfW does aspire to be helpful when refusing a request made under the Freedom of Information Act by making suggestions for ways in which to refine or redirect a request. However, as the sole owner of the information in question and in light of our application of the Section 38 exemption, we are unable to make an alternative suggestion in this instance.

We do hope our refusal to disclose this information does not dampen your stated enthusiasm for rail.

Kind regards,

Transport for Wales

Appeal Rights

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Head of Freedom of Information at either Transport for Wales, 3 Llys Cdwyn, Pontypridd, CF37 4TH or freedomofinformation@tfw.wales. Your request must be submitted within 40 working days of receipt of this letter. 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 (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".