

Date issued: 31 March 2021

Requester Name: ###

Requester Address: ###

Freedom of Information Internal Review – Original Decision Affirmed

Dear ##,

I write in response to your request for an internal review of our original response to your FOI request for all Transport for Wales (TfW) automated announcements that play onboard our trains and at our railway station platforms (our reference: FOI 2021-195 Announcements) dated 21 February 2021.

I am a more senior member of staff than the original decision maker in this case and as such, I have reviewed the response. I have decided to affirm the original decision made for reasons I will now outline.

I am satisfied that our use of the Section 38 health and safety exemption is justifiable and proportionate. This exemption was not, as you allege, used as an ‘excuse to avoid giving out [the] recordings’. Further information about this exemption can be found [here](#). As outlined in our original response, the risk posed to the health and safety of our passengers is a real one. I am satisfied that the risk meets the definition outlined in Section 38 of the Freedom of Information Act, whereby the endangerment of both the mental and physical health, as well as the safety of any individual is considered. I am also satisfied that there is a clear, causal link between the endangerment of health and safety and the disclosure of this information. Should this information be used in a vexatious manner, as illustrated by the example included in our original response, this would certainly amount to significant distress and may even prompt passengers to risk their safety in a way that is more than simply trivial.

Further to the exemption under Section 38 cited in our original response, 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 each station across the length and breadth of Wales, 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 this review illustrates, responding to a request of this nature is multifaceted and complex. Whilst I note similar requests made to a number of 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 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.

I hope this letter has provided you with a sufficient explanation of the reasons your Freedom of Information request was refused. If you are dissatisfied with the outcome of this internal review, your right to appeal to the Information Commissioner is outlined below.

Yours sincerely,

Heather Clash
Director of Finance

Transport for Wales

Appeal Rights

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 (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".