

Rail

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF
darius.astell@transport.gov.scot



Mr Julian Paren
Marowan
Munlochy
Ross-shire
IV8 8PF

Your ref:

Our ref:
Fol/18/00137/00195

Date:
14 February 2018

E-Mail: julian.paren@gmail.com

Dear Mr Paren

REQUESTS UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your requests dated 18 and 23 January 2018 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your requests

1. You asked for

- i. any or all correspondence between Transport Scotland and Serco Caledonian Sleeper Ltd (SCSL) relating to the withdrawal of the shared sleeper cabin option for single travellers;
- ii. any or all correspondence held in Transport Scotland relating to this change including but not limited to the initial request, internal decision-making process and outcome;
- iii. any or all correspondence between Transport Scotland and Serco Caledonian Sleeper Ltd (SCSL) relating to the withdrawal of the use of Network Railcards for shared cabins from February 25 2018;
- iv. any and all correspondence held in Transport Scotland relating to this change including but not limited to the initial request, internal decision-making process and outcome.

Response to your request

2. I enclose a copy of the information you requested as follows:-

- i. a summary of responses to a consultation document issued by Transport Scotland in 2014 prior to issuing Invitations to Tender for the current ScotRail and Caledonian Sleeper franchises;



- ii. three individual responses to the afore-mentioned consultation document that specifically referred to single travellers being required to share with a stranger on Caledonian Sleeper services;
 - iii. an extract from a presentation from SCSL to Transport Scotland on 3 November 2016 referring to the withdrawal of the “share with a stranger” option from the new trains;
 - iv. an extract from a Ministerial submission of 20 January referring to the end of the “share with a stranger” product offer;
 - v. an exchange of E-Mails dated 5 and 17 September concerning the planned withdrawal by SCSL of discounts for holders of some national railcards when reserving shared accommodation.
3. Whilst our aim is to provide information whenever possible, in this instance it has been necessary to redact some of the information you have requested because exemptions under Sections 30(b)(i) (free and frank provision of advice) and 33(1)(b) (commercial interests) of FOISA apply.

Your right to request a review

4. If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Roy Brannen, Chief Executive, Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date on which you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.
5. If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner’s website at:
<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely,



Darius Astell
Franchise Management Unit

REASONS FOR REDACTING INFORMATION

Exemptions apply, subject to the public interest test

An exemption under section 30(b)(i) of FOISA (free and frank provision of advice) applies to some of the information requested – namely sections of the submission to the Minister for Transport and the Islands. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to Ministers before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on Caledonian Sleeper's fares structure for its new trains would substantially inhibit the provision of such advice in the future, particularly because this advice related to sensitive and commercial information.

This exemption is subject to the 'public interest test'. Taking account of all the circumstances of this case, therefore, we have considered whether the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. There is a greater public interest, however, in allowing a private space within which officials can provide full and frank advice to Ministers as part of the process of exploring and refining the Government's position on train operating company fares policies. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, so that good decisions can be taken. Disclosure of such advice would be likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the decision-making process, which would not be in the public interest.

An exemption under section 33(1)(b) of FOISA (commercial interests) applies to some the information requested – namely sections of the E-Mail exchange between Serco Caledonian Sleeper Ltd and Transport Scotland and sections of the presentation from SCSL to Transport Scotland. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the commercial interests of Serco Caledonian Sleeper Ltd. It would reveal details of Serco's marketing strategy that could potentially give Serco's competitors an advantage in future rail franchise competitions.

This exemption is subject to the 'public interest test'. Taking account of all the circumstances of this case, therefore, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. There is a greater public interest, however, in protecting the commercial interests of companies which tender for and enter into Scottish Government contracts, to ensure that we are always able to obtain the best value for public money.

