

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 April 2023

Public Authority: Northern Trains Limited
Address: Northern House
9 Rougier Street
York
YO1 6HZ

Decision (including any steps ordered)

1. The complainant has requested an audio file with all the segmented voice data used by Northern Rail in their public address system. Northern Rail refused the request as vexatious, later adding that it considered the information would also be exempt under sections 41, 43, 24 and 38 of FOIA.
2. The Commissioner's decision is that Northern Rail has demonstrated the request is vexatious under section 14(1) of FOIA. He has therefore not gone on to consider the other exemptions and he requires no steps to be taken.

Request and response

3. On 20 August 2022 the complainant made a request for information to Northern Trains ("Northern") in the following terms:

"Following a recent successful FOI request to ScotRail, who, with permission from KeTech, have now publicly released a 2-hour long mp3 audio file recalling over 2,440 segmented voice data, voiced by Alison McKay, presently used for their KeTech Public Address system.

I would like to request that Northern Railway do the same."

4. Northern responded on 23 August 2022 confirming it did hold some of the information as it held a small number of automated station announcements as audio files. However, Northern considered the information to be exempt under section 14(1), 43(2), 41, 24 and 38 of FOIA. It focused its refusal on section 14(1) as it considered the request to be vexatious.
5. The complainant asked for an internal review of this decision on 4 October 2022 on the grounds they did not agree the response was appropriate or that it was a vexatious request. Northern responded on 5 October 2022 reserving the right not to conduct an internal review as insufficient justification had been given and it maintained its position.

Reasons for decision

Section 14 – vexatious or repeated requests

6. The position of Northern is that it considers the request to be vexatious as it would cause a disproportionate burden to comply and the request is therefore refused under section 14(1) of FOIA.
7. The Commissioner asked Northern to explain how complying with the request would create such an oppressive and disproportionate burden, particularly as it had stated that it did hold some announcements as audio files. Northern later clarified the few announcements it held as .wav audio files were not the normal station announcements (they related to Corona virus announcements, amongst other things) and were not within scope of the request as they were not the segmented Ketech audio announcement referred to in the request.
8. Northern explained that the contracted Ketech public address system used for passenger announcements at Northern's stations is comprised of approximately 14,000 segmented voice recordings which the Ketech software selects and 'stitches' together to form complete customer information announcements.
9. The withheld information in this case, the recordings for the station public address (PA) system, are stored on Northern computers at each station. The information is therefore held by Northern, albeit not in the format requested, and the processing of extracting it and converting it into the correct format may not be able to be done by Northern without Ketech assistance (and cost). Northern has access to the recordings and they hold the information on behalf of Ketech under licence in order to use it for their PA station announcements. However, Northern cannot extract the files for onward distribution and the operating system including the recorded files are the property of Ketech, supplied as part

of an overall software operating package provided to Northern under a signed commercial contract with clear stipulations regarding distribution and disclosure.

10. In order to obtain the files in the format requested ie as a continuous audio file of all the segmented voice data, Northern would need to request that Ketech convert each individual voice recording into a .wav format file. This would create thousands of files that Northern would then need to place into a .zip file for onward distribution.
11. The complainant points out they did receive this information in response to a similar request to ScotRail. Northern acknowledges they are aware Ketech did perform this service for ScotRail but this was done at a cost of £1 per .wav file and this cost would also apply to Northern should they require Ketech to undertake the same task. As Northern has identified 14,000 .wav files used by the Northern system it is of the view that the cost of facilitating the request would be excessive.
12. Northern therefore regard the burden this request would place on it for making this request to Ketech, collating thousands of files for distribution, and paying a significant sum to answer the request, to be excessively disproportionate given that it serves no obvious wider public value or interest.
13. The Commissioner considers there is a high threshold for refusing requests on the grounds that a request places a grossly oppressive burden on a public authority or is excessively disproportionate. He would expect the public authority to be able to show that the complainant has asked for a substantial volume of information or that complying with the request would be grossly oppressive or burdensome relative to the value of the request.
14. In this case the issue appears to be that Ketech would likely impose a charge for compiling the information into an audio file and this charge would be excessive and burdensome on Northern. The Commissioner accepts that complying with this request is likely to impose a considerable financial burden on Northern but to accept that this on its own is enough to refuse the request as vexatious he must consider the value of the request relative to the impact on the public authority of complying with the request.
15. Northern has pointed to a decision of the [Upper Tribunal](#) considering vexatiousness in which the issue of purpose or value was discussed. Public interest in this case was defined as a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:

- holding public authorities to account for their performance;
 - understanding their decisions;
 - transparency; and
 - ensuring justice
16. Northern considers that a request for all its station announcement files does not meet this definition and can only be of private interest to the requester. As such there would be a disproportionate burden placed on Northern if it were to comply with the request. It argued it is essential for Northern staff to prioritise the safe and efficient operation of the rail network across the North and the public interest lies in committing resources to delivering this service.
 17. The complainant argues that ScotRail released an mp3 audio file on their website containing all the station announcements they held under their publication scheme. As Northern are also a public body, much like ScotRail, then it stands to reason that if one can provide the information the other should be able to do the same. The complainant considers there is a wider public interest and demand for the information amongst rail enthusiasts.
 18. The Commissioner recognises that the complainant and rail enthusiasts have an interest in this information but this does not equate to a wider public interest in the information. It is difficult to see how the requested information would contribute to transparency, accountability or understanding decision making at Northern. There is no obvious wider public interest in the information, for example to shed light on an issue or to gain an insight into public spending.
 19. The Commissioner cannot comment on ScotRail's response or take into account how other public bodies have responded to similar requests and must consider this request and Northern's response on its own merits.
 20. Whilst the Commissioner considers there is a high threshold to be met for a request to be deemed vexatious, if there is no apparent obvious public interest in the information and therefore no wider value to the request it is not unreasonable to consider that when such a high financial burden is involved in complying with the request, that this could be seen as being grossly oppressive. Particularly as this will divert funds and resources from Northern's essential services.
 21. The Commissioner considers Northern has sufficiently argued that the request is vexatious under section 14(1) of FOIA. He has not gone on to consider if any of the other cited exemptions may provide a basis for refusing the request.

Reference: IC-195268-G9B3

Right of appeal

22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jill Hulley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF