

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 February 2024

Public Authority: Translink
Address: 9th Floor
22 Great Victoria Street
Belfast
BT2 7LX

Decision (including any steps ordered)

1. The complainant requested from Translink, information regarding the sound files for its automated announcements used at railway stations and onboard its trains. Translink refused to comply with the request and cited section 38 (health and safety) of FOIA.
2. The Commissioner's decision is that the withheld information engages section 38 of FOIA and the public interest favours maintaining the exemption. The Commissioner does not require Translink to take any further steps as a result of this decision.

Request and response

3. On 27 June 2023 the complainant requested information under the FOIA of the following description:

"I would like to request copies of the sound files of all of your automated announcements that are used at your stations and onboard your trains please.

This should include all of the following automated announcements sound files:

- Station Announcements - Atos Worldline - current station announcements used at Translink Northern Ireland Railways stations - voiced by Anne Jermy
- Onboard Announcements - current announcements used onboard the Class 3000 and Class 4000 and Enterprise Loco Hauled Set trains - voiced by Kathy Clugston

If you have them in MP3 or WAV format or as ZIP files containing MP3 or WAV format that would be the best but any other format you have is fine too."

4. On 26 July 2023 Translink responded and confirmed it held the information requested. However, Translink considered the information exempt from disclosure under section 43(2) (commercial interests) of FOIA.
5. On 27 July 2023 the complainant asked for an internal review
6. On 20 September 2023 Translink provided its review response and maintained its original position. It also determined that a further exemption should have been considered and applied section 38 (health and safety) of FOIA.
7. Following the Commissioner's intervention, Translink having revisited the request, revised its position. It decided not to rely on section 43 of FOIA, but maintained its reliance on section 38 and also applied another exemption to the request – section 12 (cost of compliance) of FOIA.

Reasons for decision

8. This reasoning covers why Translink was entitled to rely on section 38 of FOIA to refuse to provide the requested information.

Section 38 – health and safety

9. Section 38 of FOIA states: (1) 'Information is exempt information if its disclosure under this Act would be likely to –
 - (a) endanger the physical or mental health of any individual, or
 - (b) endanger the safety of any individual.'
10. In order to satisfy the Commissioner this exemption is engaged, the public authority must demonstrate that there is a causal link between the endangerment and disclosure of the information.
11. The public authority must also show that disclosure would or would be likely to endanger the safety of any individual. The effect cannot be trivial or insignificant. Endangering physical health usually means an adverse physical impact and often involves medical matters, this can relate to either individuals or a group of people. Endangering mental health implies that the disclosure of information might lead to a psychological disorder or make mental illness worse. This means that it must have a greater impact than causing upset and distress.

Translink's position

12. Translink provided the Commissioner with some historical context about its transport services across the region of Northern Ireland. It also highlighted the fact that "Translink currently operates against a backdrop where paramilitary groups are willing to use sophisticated means to cause harm or to isolate targets, and where societal tensions remain high and may flare up at any time." Translink stated that because of its public serving role in connecting communities and jurisdictions, it is often Translink's network, its customers and employees that are targeted and caught up in violence.
13. Translink informed the Commissioner that it is the main provider of public transport in Northern Ireland, and must ensure its services and facilities are accessible to all. It said this means, creating a consistent customer experience for everyone, ensuring accessible public transport for people with all levels of abilities. Translink added, "any barriers to travel must, therefore, be carefully considered."
14. In this case, Translink considers all of its automated announcement files (for railways and stations) to be exempt from disclosure under section 38 of FOIA. It relied upon both parts of the exemption.

15. Translink contends there is an ever-present threat to individual safety within the railway network, and said this would be exacerbated if these files were to be released. It stated all the files are subject to the exemption at section 38 of FOIA, and that there is a clear potential for harm, injury and endangerment to Translink customers and employees.
16. Translink explained to the complainant that "the relevant automated announcement audio files include the names of halts and stations but also, for example, announcements relating to emergency evacuation, fire safety, service cancellations and similar emergency announcements. It is not difficult to envisage how these files could be used by individuals who wish to cause alarm, disruption or other harm to our customers, staff and network, for example, by broadcasting the announcements on a train or in a station."
17. The complainant disagreed with this explanation, and said there is no record of any such incident happening in the mainland where many files have been released. He cited examples of what an individual could do to cause disruption if they so wanted to. He said there is nothing that someone could achieve by playing these automated announcements at stations and on trains. He also listed the train companies that had released their automated announcement sound files under FOIA. The complainant does not believe there is a significant risk, and noted to Translink that the security announcements used by the listed train operators follows the same or similar script. Therefore, the complainant believes that releasing these files, Translink is not giving access to anything that can't be found elsewhere.
18. Translink emphasised that disclosures made under FOIA are deemed to be disclosures to 'the world at large' and in view of this, the release of the information requested would pose a genuine risk to Translink. It said its infrastructure, the safety of its customers and employees would be endangered.
19. With regard to the complainant's query on the position adopted by Translink compared to public transport providers in Great Britain ("have released many sound files"), Translink explained "...that Translink's strategic role within Northern Ireland and the differing threat level within this jurisdiction, meant that Translink should be cautious and afforded the protection which section 38 seeks to provide."
20. The complainant said he understands Northern Ireland has a different history compared to the mainland, and that the railways have previously been subject to attack during the troubles. However, the complainant considers "this type of thing is no longer a significant threat as it used to be. Attacks on the railway have not happened for decades." The complainant said he strongly disagrees with Translink's reliance on

section 38 of FOIA and suggested the removal of the files that are of concern. He said the majority of the sound files contain "the ordinary every day announcements about the trains and the calling points etc." and that Translink could simply redact/remove the amount of sound files relating to security and safety and evacuations etc which he said, would remove their concerns.

21. The complainant argued the application of section 38 of FOIA to his request. He referred to a couple of train companies (from the list he had provided) that had released without issue, their automated announcement sound files under FOIA. This, he said, included all of their safety and evacuation announcements. He stated this is an indication that these sound files do not pose a safety risk, as they would not have been released otherwise. He believes there is nothing an individual could do "should they get hold of these." The complainant reiterated that he disagrees section 38 of FOIA is valid in regard to his request. He further argued that there isn't any evidence the release of these files would endanger the safety of any individual.
22. Translink explained to the Commissioner the 'impact of disclosure' and is of the view that disclosure of the withheld audio files would result in an adverse effect, namely an increased risk that its infrastructure and the health and safety of its customers and employees would be endangered.
23. Within its submissions to the Commissioner, Translink reiterated that it is the sole provider of public transport in Northern Ireland and is required to provide safe, accessible and consistent services for people of all ages and abilities. It said one of the means of providing an accessible service, is through the use of clear automated announcements on trains and at its stations and platforms. Translink explained that an individual that has the relevant files, could easily broadcast them through speakers on a train or at a busy station which could cause significant disruption. Translink set out to the Commissioner the potential adverse effects and included links to websites to illustrate the issues described.

The Commissioner's position

24. The Commissioner cannot provide full details of his consideration in this decision notice, as to do so would defeat the purpose of the exemption. However, having considered the potential adverse effects which Translink set out to the Commissioner in detail, and viewed features within the links provided which also highlights the issues it described, the Commissioner accepts disclosure of the information engages the exemption. He is satisfied that there is a causal link between disclosure of the information, and endangerment of the safety of individuals. Furthermore, the Commissioner accepts disclosure 'would be likely' to prejudice the health and safety of individuals.

Public interest test

25. As section 38 is a qualified exemption, the Commissioner will consider whether, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Public interest arguments in favour of disclosing the information

26. Translink recognises that there is a public interest in favour of disclosure in relation to openness and transparency. It acknowledges that disclosing the requested audio files would show a willingness towards being open and transparent. Translink said it also recognises that its rail network is of great personal interest to some people, and they would enjoy having these files. It added, "there is no suggestion that [the complainant] would use them for anything other than such a personal interest."

Public interest arguments in favour of maintaining the exemption

27. Translink argued that in this instance, the disclosure of audio files announcing the names of train stations, passenger safety measures or emergency notices would be 'interesting' to a very small number of people with specific hobbies. Translink said, "it is difficult to envisage any societal benefit to the public interest from their disclosure."
28. Translink acknowledged the main purpose of FOIA ("strengthen accountability, tackle secrecy and open the workings of public bodies"). However it said "one must query whether any of these outcomes would actually be achieved through the disclosure of the files, or whether the true purpose is to serve a hobby or interest."
29. Translink considers the public interest lies in maintaining the exemption. It said that ensuring the safety of Translink's customers and employees is always its priority. Disclosure of the files, it added, could be detrimental to that aim by increasing the chances of endangerment to health and safety. Translink explained that to ensure safe travel, all possible scenarios that would endanger public safety must be identified and either prevented or mitigated against.

Balance of the public interest

30. The Commissioner will invariably place significant weight upon protecting individuals from risk to their physical and mental wellbeing. The natural consequence of this is that disclosure under FOIA will only be justified where a compelling reason can be provided to support the decision.

31. Clearly in any such situation where disclosure would be likely to lead to endangerment to health and safety, there is a public interest in avoiding that outcome.
32. The Commissioner has determined that the strength of the arguments favouring disclosure is outweighed by the public interest in maintaining the exemption in order to safeguard the health and safety of individuals.

Conclusion

33. In all the circumstances of this case, the Commissioner's decision is the balance of the public interest favours maintaining the exemption, and Translink was entitled to rely on section 38 of FOIA to withhold the information. The Commissioner has therefore not gone on to consider section 12 of FOIA.

Right of appeal

34. 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

35. 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.
36. 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

Joanna Marshall
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