



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref ATISN 12668

13 November 2018

Dear ,

Request for Information – ATISN 12668

I wrote to you on 22 October regarding your complaint.

I have conducted an internal review of your request in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request, or via the internet.

In my letter I asked if you could explain whether you had any particular reasons as to why you were dissatisfied with the response you received and whether there was a particular element of the response that you disagreed with. Given I did not receive a response from you, I have reviewed the request and response in full.

I note that on 3 October, you submitted your request, asking for:

"...a copy of the executed Wales and Borders Franchise Agreement which has recently been awarded to KeolisAmey together with copies of any other documents referred to within the agreement. I note the UK government publishes copies of all rail franchise agreements for which it is responsible for here: <https://www.gov.uk/government/collections/public-register-of-rail-passenger-franchise-agreements>. I cannot see a copy of the recent franchise agreement awarded to KeolisAmey available online. Presumably you are under a similarly obligation to make such documents available to the public".



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding .

In our reply of 18 October, it was explained that the information you had requested, namely the executed Wales and Borders Franchise Agreement awarded to KeolisAmey together with copies of any other documents referred to within the agreement, in line with the publication of such documents by the UK Government, was withheld from disclosure under Section 22 of the Freedom of Information Act 2000 (FoIA), information intended for future publication. You were provided with reasoning for withholding the information under this exemption.

I have considered your original request and the response that issued. In doing so, I believe it was correct to withhold the information from publication at this time and that the information should not be published ahead of the pre-arranged timetable. My reasons are set out below.

I am in agreement with the interpretation of the response, which equated the scope of the request to the nature of franchise publications on the DFT franchise register supplied by you.

The response you received focussed on a key argument that the information requested is exempt from publication as there is a clear intention to publish the information in future. The request for information was declined on the basis that a decision had already been made to publish the information at a future date prior to you submitting your request. Because of this, the handling of your request was appropriately considered under Section 22 of the FoIA.

I note that the exemption does not hold the Welsh Government to a specific timetable for the publication of this information in future. However, I also note that our response seeks to establish a timeline to help confirm the intent to publish, provide some reassurance and help provide some useful context for the timescale.

My review has found that the Welsh Government had previously committed to publishing the information before the end of 2018 as opposed to June 2019, as indicated in our response. I can confirm it is currently on schedule to meet that timeline. On that basis, I have concluded that the proposed timeline of 12 months (with a current timeline of 6 months) sets a realistic expectation of publication while allowing Government time to meet this commitment more rapidly if possible.

In terms of the proposed timeframe for release, an analysis has been conducted of publication timescales for this sort of information based on the information provided on the DFT register. The DFT [website](#) states:

“Rail franchise agreements are legally binding contracts between the Secretary of State for Transport and franchisees. These rail franchise agreements are published as required by the Freedom of Information Act 2000. The franchise agreements are redacted as determined by the Secretary of State under the exemptions permitted by the Freedom of Information Act 2000.”

I can confirm that the Welsh Government process for publishing the information requested is similar to that outlined above.

Having looked at the 14 franchise schemes listed on the DfT website, together with their date of award and date of publication, three were discounted (Chiltern, Great Western and South Eastern) on the basis that it was not possible to rationally reconcile the dates presented (for example, the Great Western franchise was agreed on 22 March 2015 but published in January 2012). The analysis revealed that the average publication window is 6.5 months with the quickest being 2 months and the slowest 11 months. On that basis, I have concluded that the proposed timeline of 12 months sets a realistic expectation of publication while allowing Government time to meet this commitment more rapidly if possible.

Here is that analysis in full:

Franchise	Agreed	Published	Delta
Chiltern	2002	Jun-12	10 years
Cross Country	Sep-16	Jun-17	9 months
East Anglia	Aug-16	Apr-17	8 months
East Coast	Dec-14	Jun-15	6 months
East Midlands	Sep-15	May-16	8 months
Essex Thameside	Jul-14	Jun-15	11 months
Great Western	Mar-15	Jan-12	?
Northern	Dec-15	Feb-16	2 months
South Eastern	Mar-15	Jun-12	?
South Western	Apr-17	Jan-18	9 months
Thameslink	Jun-14	Oct-14	4 months
TransPennine	Dec-15	Feb-16	2 months
West Coast	Feb-18	Sep-18	7 months
West Midlands	Dec-15	May-16	5 months
			6.5 months

Turning to the public interest test, I am satisfied that the arguments provided to you are sensible and balanced. Whilst the information may be of interest to members of the public now, I do not believe it would be in the public interest to publish incorrect information which had not been subject to the necessary rigorous validation process to ensure what is published is accurate. The franchise agreement runs to multiple volumes and all of this information must be reviewed to ensure it is appropriately presented and is suitable for the public domain, as outlined above. It is only possible to start this process at the point from which the contract was signed (the point from which it had been finalised), which was June 2018.

I am therefore in full agreement with the response which issued, in that publishing the information on our website will ensure it is published in an organised and coordinated way, to everyone at the same time, with corresponding contextual explanations of the information that is being published. I do not believe it would be in the public interest to accelerate this process and thus risk inaccurate information being released prematurely and out of context.

To conclude, I do not uphold your complaint as I believe the Section 22 was correctly and appropriately relied upon for withholding the information at this time.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office,
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF
Tel: 01625 545 745
Fax: 01625 524 510
Email: casework@ico.org.uk

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed, Bridgend, CF35 5LJ
Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely

Simon Jones
Director – Economic Infrastructure