

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 17 February 2023

**Public Authority:** London North Eastern Railway  
**Address:** East Coast House  
25 Skeldergate  
York  
YO1 6DH

#### **Decision (including any steps ordered)**

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1. The complainant requested information from London North Eastern Railway (LNER) about user facing guides/documentation relating to the S3 passenger system. LNER explained that it did not hold the requested information, nor was it held on its behalf.
2. It is the Commissioner's decision that, on the balance of probabilities, LNER does not hold the requested information.
3. The Commissioner does not require LNER to take any steps as a result of this decision notice.

#### **Request and response**

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4. On 24 September 2022, the complainant wrote to LNER and requested the following information:
  - "I would like to request copies of TOC-facing user guides/documentation relating to the S3 Passenger system ("RARS" as implemented in the UK) issued by Sqills and/or Rail Delivery Group.
  - For the avoidance of doubt, I am not interested in any API documentation - merely documentation around the user-facing (presumably web-based) components of the solution.

- In particular, I am interested in the tooling that TOCs have available to them for setting up and amending Advance ticket availability, cancelling/amending reservations and also designing/inputting seat maps.”
5. LNER responded on 17 October 2022, explaining that, after carrying out various searches, it had determined that it did not hold the requested information.
  6. Following an internal review, LNER wrote to the complainant on 3 November 2022, maintaining its original position that it did not hold the requested information.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 10 November 2022, to complain about the way their request for information had been handled.
8. The Commissioner understands that the information requested by the complainant may be accessible via an online portal operated by Sqills.
9. [Sqills](#) is a software company that provides “inventory, reservation and ticketing for the rail and bus industry” and has “partnerships” with a number of transport operators. The information requested relates to Sqills’ “S3 Passenger” web based platform which handles transactions made by individuals who are using public transport, and includes an online booking system.
10. The complainant does not accept the reasoning provided by LNER as to why the information that is accessible via the portal, is not information held by LNER.
11. The Commissioner will consider whether, on the balance of probabilities, LNER holds the requested information.

## Reasons for decision

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12. Under section 1(1)(a) of FOIA anyone who requests information from a public authority is entitled to be told if the authority holds the information.
13. LNER has confirmed to both the complainant and the Commissioner that it has carried out searches of its database of both emails and documents, and that no information was found which fell within the scope of the request. It also advised that it is satisfied that any information relevant to the request which is accessible via the online portal operated by Sqills is not held by, or on behalf of, LNER.
14. The Commissioner's guidance "[Determining whether we hold information](#)" provides advice to a public authority which has received an request for information which it can only access online, via a subscription, or where it has "read only" access rights.
15. The guidance confirms that in order to determine whether such information is held for the purposes of FOIA, the public authority should consider the nature of any subscription, or the type of access it has to the information.
16. LNER has advised that when making its decision, it considered both the Commissioner's guidance and the decision made by the Tribunal in the case of [Glen Marlow v the Information Commissioner EA/2005/0031](#).
17. LNER advised the complainant that there is no contract between Sqills and LNER for the provision of the S3 Passenger system. It goes on to say that Sqills does, however, have a contract with Rail Delivery Group (RDG), and that the latter is a subscriber to the portal. It also confirmed that it is RDG that has arranged for LNER to have read only access to the online portal. It stated that information within the portal "remains the commercial property of the third-party organisation."
18. The Commissioner is satisfied from the explanations provided by LNER that it is not a subscriber to the online portal which may hold the information requested by the complainant.
19. Furthermore, the Commissioner accepts that whilst LNER may be able to access information via the online portal, this is only as a result of its relationship with a third party, that being RDG, and its access rights are restricted.

20. The complainant has argued that LNER has the tools available to copy and paste documents from the online portal.
21. However while LNER has confirmed that it is possible to screenshot information from the online portal, doing so would create new information that it did not previously hold. Therefore it is not required to take such action under FOIA in order to satisfy the request.
22. Having considered all of the available information, the Commissioner is satisfied that LNER has provided sufficient explanation as to why it does not hold the information requested, or why it is not held on its behalf.
23. The Commissioner has therefore decided that, on the balance of probabilities, LNER does not hold the requested information and that it has complied with its obligations under section 1(1)(a) of FOIA in this case.

## Right of appeal

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24. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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 .....**

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**