Isle of Man Government
Reiltys Ellan Vannin

infrastructure
bun-troggalys

FOI Reference No: IM106827i
Request Under The Freedom Of Information Act 2015 ("The Act")

Thank you for your request dated 14 October 2017.

Your request (*with clarification in italics*)

Please provide the following information

1. A copy of the contract between DOI and Mercedes Benz to supply vehicles for public transport etc. (Please note, if you refuse on the grounds of commercial confidentiality provide the clause from said contract that states under FOI any such request would be withheld)

2. Provide copies of the original shipping manifests detailing ALL Mercedes vehicles supplied to DOI

3. Provide a list of all types of Mercedes Benz vehicles including vehicle registration, type of vehicle, purchase price supplied to DOI

4. Provide a list of all Mercedes Benz vehicle parts, spares etc purchased from Jan 1st 2017 to present date to include total cost

*Please provide the information on the Mercedes Benz vehicles that were provided in regard to the DOI bus service contract. Note, this is in reference to **ALL** vehicles that were provided by Mercedes Benz reference the DOI bus service contract.*

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested; the reasons and statutory exemption sections are shown as part of the corresponding answers below.

1. As a courtesy to Mercedes, we informed them of this request for information and asked for their consent. Mercedes have asked us to withhold information on the basis of commercial sensitivity and confidentiality. A copy of their response, with personal data redacted, can be seen in Appendix 1.

Section 25(2)(b)(i) Information is also absolutely exempt information if the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 2002, the disclosure of the information to a member of the public (otherwise than under this Act) would contravene any of the data protection principles;

Please note that there are no published prices for any full size bus where they are built to an individual specification for an operator.

We believe that the release of the Mercedes contract documents and pricing information of the purchased vehicles into the public domain would prejudice the commercial interests of both Transport Services and Mercedes. Disclosure of this information would have a direct detriment on both parties' abilities to participate competitively in future vehicle sales and acquisition, and in the reputation of, and business confidence in both parties. Accordingly, we have applied an exemption under section 30(2)(b) to this information.

Under Section 30(2)(b) of the Freedom of Information Act 2015, information is qualified exempt information if its disclosure would, or would be likely to, prejudice the financial interests of a person (including the public authority holding it). (Usually relating to the commercial trading activity they undertake e.g. ongoing sale or purchase of goods and services for the purposes of revenue generation, within a competitive environment).

Section 30(2)(b) of the Freedom of Information Act is a qualified exemption and therefore subject to a public interest test and a prejudice test.

The outcome of the prejudice test was as follows: Mercedes-Benz has supplied Transport Services with a fleet of bespoke buses and the details of the contract and prices were subject to negotiation. As such, the detail and costings of the purchased fleet are commercially sensitive. Mercedes-Benz's commercial interests would be affected by disclosure if details of the purchase and costings of the fleet were seen to be more favourable to Transport Services than those offered by Mercedes to purchasers of similar fleets. The commercial interests of Transport Services would also be affected, if the terms and costs of purchase of the fleet were found to be significantly less favourable than prospective competitors would have offered to Transport Services in future.

In assessing where the public interest lies, the following factors have been considered.

In favour of disclosure:

- Likely to improve public confidence in the degree to which Transport Services has purchased a bus fleet that is value for money.
- Likely to improve the degree to which business can respond to Public Sector opportunities.
- Likely to improve public awareness of how public money is being spent.

In favour of maintaining the exemption and withholding the information:

- The need to protect the commercial interests of the private sector in general and Mercedes-Benz in particular. The recognition of the role that protection of private sector commercial interests has in the general health of the economy.

- The need to protect the commercial interests of the public sector in general and Transport Services in particular. The recognition of the role that protection of public sector commercial interests has in the wider context of the public interest.
- The possibility that disclosure of the information would result in financial instability.

Having balanced the factors in favour of disclosure with the factors in favour of maintaining the exemption, we consider that the exemption under Section 30(2)(b) currently outweighs the public interest in disclosure for this request.

2. The vehicles are purchased from Evo Bus (UK) Ltd, a wholly owned subsidiary of Mercedes Benz. The invoices are paid in £ Sterling and are subject to UK VAT. As such, no shipping manifests are used as they are booked on the Isle of Man Steam Packet Company sailings as motor vehicles.

3. Appendix 2 contains a list of all Mercedes-Benz vehicles that were provided with regard to the DOI bus service contract, along with their registration numbers. Pricing information has been withheld under Section 30(2)(b) of the Freedom of Information Act 2015, for the reasons already stated above.

Under Section 30(2)(b) of the Freedom of Information Act 2015, information is qualified exempt information if its disclosure would, or would be likely to, prejudice the financial interests of a person (including the public authority holding it). (Usually relating to the commercial trading activity they undertake e.g. ongoing sale or purchase of goods and services for the purposes of revenue generation, within a competitive environment).

4. In this instance, we do not hold information in a format that allows us to answer this question accurately, without extensive analysis. Transport Services orders vehicle parts from several suppliers for its entire fleet, which includes Vauxhall, Ford, Renault, Peugeot, Citroen and Fiat vehicles as well as Mercedes-Benz. Parts can sometimes be used on several makes of vehicles.

Under section 11(2)(b) of the Act – a practical refusal reason referencing s8(3), the Act states that "a public authority is not required to create or derive information form the information that it holds; undertake research into, or analysis of, information that it hold; or undertake substantial compilation or collation of information that it holds".

Your right to request a review

If you are unhappy with this response to your Freedom of Information request, you may ask us to carry out an internal review of the response, by completing a complaint form and submitting it electronically to foi.doi@gov.im or by delivery/post to The FOI Co-ordinator, Department of Infrastructure, Sea Terminal Buildings, Douglas, IM1 2RF. An electronic version and paper version of our complaint form can be found by going to our website at www.gov.im/foireview

Your review request should explain why you are dissatisfied with this response, and should be made as soon as practicable. We will respond as soon as the review has been concluded.

If you are not satisfied with the result of the review, you then have the right to appeal to the Information Commissioner for a decision on;

1 Whether we have responded to your request for information in accordance with Part 2 of the Freedom of Information Act; or

2 Whether we are justified in refusing to give you the information requested.

In response to an application for review, the Information Commissioner may, at any time, attempt to resolve a matter by negotiation, conciliation, mediation or another form of alternative dispute resolution and will have regard to any outcome of this in making any subsequent decision.
More detailed information on your rights to review is on the Information Commissioner's website at: www.inforights.im/

Should you have any queries concerning this letter, please do not hesitate to contact me.

Further information about Freedom of Information requests can be found at
https://www.gov.im/about-the-government/freedom-of-information/

APPENDIX 1

From: Longworth, Ian
To: s25
Subject: Fwd: Freedom Of Information request.
Date: 26 October 2017 17:13:10

Sent from my iPad

Begin forwarded message:

From: <Andy.Greenway@daimler.com>
Date: 26 October 2017 at 16:40:11 GMT+1
To: <Ian.Longworth@gov.im>
Cc: s25 @daimler.com>, s25 @daimler.com>, s25 @daimler.com>
Subject: Freedom Of Information request.

Dear Ian
Thank you for raising this point with us.
Our pricing information is confidential and commercially sensitive and we do not want our pricing information revealed.
Our original offer letter and our order confirmation both stated that the pricing information is confidential. Release of the information would amount a breach of your obligations of confidentiality to us.
Further, if the information is released it would prejudice our commercial interests as it could prejudice any subsequent negotiations with third parties and provide competitors with information that they could exploit to damage our commercial interests and this may potentially impact upon competition.
The exemptions under s.41 and s.43 of the Freedom of Information Act 2000 are both applicable in this case and we would therefore be grateful if you would rely on them and refuse to release the pricing information.
Kind regards

Andy

Kind regards / Mit freundlichen Gruessen
Andy Greenway
Area Bus Sales Manager
EvoBus UK Ltd
Ashcroft Way,
Crosspoint Business Park
Coventry CV2 2TU
Tel: - +44 (0)2476 626000
Fax: - +44 (0)2476 626034
Mobile: s25
mailto:andy.greenway@daimler.com
Meet us on the internet: http://www.evobus.co.uk
EvoBus (UK) Ltd.

Domicile and Court of Registry: England & Wales
Commercial Register No.: 02882442
Board of Directors: Roman Biondi (Chairman), Michael Thielmann (Managing Director)
Board of Management: Michael Thielmann (CEO), Michal Chylinski (CFO), Marcus Watts, Andrew Howes

If you are not the addressee, please inform us immediately that you have received this e-mail by mistake, and delete it. We thank you for your support.

APPENDIX 2

Mercedes Fleet as at 1st June 2017

Registration Number	Make and Type
MAN 93F	Mercedes-Benz Atego
MMN 101L	Mercedes-Benz Citaro K
MMN 102L	Mercedes-Benz Citaro K
MMN 103L	Mercedes-Benz Citaro K
MMN 104L	Mercedes-Benz Citaro K
KMN 201L	Mercedes-Benz Citaro O530
KMN 202L	Mercedes-Benz Citaro O530
KMN 203L	Mercedes-Benz Citaro O530
KMN 204L	Mercedes-Benz Citaro O530
KMN 205L	Mercedes-Benz Citaro O530
KMN 206L	Mercedes-Benz Citaro O530
KMN 207L	Mercedes-Benz Citaro O530
KMN 208L	Mercedes-Benz Citaro O530
KMN 209L	Mercedes-Benz Citaro O530
KMN 210L	Mercedes-Benz Citaro O530
KMN 211L	Mercedes-Benz Citaro O530
KMN 213U	Mercedes-Benz Citaro O530
KMN 214U	Mercedes-Benz Citaro O530
KMN 215U	Mercedes-Benz Citaro O530
KMN 216U	Mercedes-Benz Citaro O530
KMN 217U	Mercedes-Benz Citaro O530
KMN 218U	Mercedes-Benz Citaro O530
KMN 219U	Mercedes-Benz Citaro O530
KMN 220U	Mercedes-Benz Citaro O530
KMN 221U	Mercedes-Benz Citaro O530
KMN 222U	Mercedes-Benz Citaro O530
KMN 223U	Mercedes-Benz Citaro O530
KMN 224U	Mercedes-Benz Citaro O530
LMN 225D	Mercedes-Benz Citaro O530
LMN 226H	Mercedes-Benz Citaro O530
LMN 227H	Mercedes-Benz Citaro O530
LMN 228H	Mercedes-Benz Citaro O530
LMN 229H	Mercedes-Benz Citaro O530
LMN 230H	Mercedes-Benz Citaro O530
LMN 231M	Mercedes-Benz Citaro O530

LMN 103J	Mercedes-Benz Sprinter
MMN 854L	Mercedes-Benz Sprinter
MMN 855L	Mercedes-Benz Sprinter
MMN 856L	Mercedes-Benz Sprinter
MMN 857L	Mercedes-Benz Sprinter
MMN 858L	Mercedes-Benz Sprinter
MMN 859L	Mercedes-Benz Sprinter
MMN 860L	Mercedes-Benz Sprinter
MMN 861L	Mercedes-Benz Sprinter
MMN 862T	Mercedes-Benz Sprinter
MMN 863T	Mercedes-Benz Sprinter
MMN 864T	Mercedes-Benz Sprinter
MMN 865T	Mercedes-Benz Sprinter
MMN 866T	Mercedes-Benz Sprinter
MMN 867T	Mercedes-Benz Sprinter
MMN 881B	Mercedes-Benz Sprinter
MMN 882B	Mercedes-Benz Sprinter
MMN 883B	Mercedes-Benz Sprinter
KMN 225L	Mercedes-Benz Sprinter 516
KMN 455H	Mercedes-Benz Sprinter 516
KMN 898J	Mercedes-Benz Sprinter 516
LMN 613E	Mercedes-Benz Sprinter 519
LMN 832P	Mercedes-Benz Sprinter 519
MMN 104T	Mercedes-Benz Sprinter 519
MMN 112F	Mercedes-Benz Sprinter 519
MMN 113F	Mercedes-Benz Sprinter 519
MMN 125T	Mercedes-Benz Sprinter 519
MMN 452D	Mercedes-Benz Sprinter 519
NMN 107A	Mercedes-Benz Sprinter 519
NMN 116A	Mercedes-Benz Sprinter 519
MAN 41H	Mercedes-Benz Sprinter City 45
MAN 42H	Mercedes-Benz Sprinter City 45
MAN 43H	Mercedes-Benz Sprinter City 45
MMN 144G	Mercedes-Benz Sprinter City 45
MMN 145G	Mercedes-Benz Sprinter City 45