

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 May 2018

**Public Authority:** Transport for London  
**Address:** Windsor House  
42-50 Victoria Street  
London  
SW1H 0TL

#### Decision (including any steps ordered)

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1. The complainant has requested information in relation to risk assessments conducted by different bus operators under the jurisdiction of Transport for London (TfL) for a specified period of time. TfL provided some information to the complainant, but stated that the remainder was not held.
2. The Commissioner's view is that the complainant's request was not clear, therefore TfL was under an obligation under section 16(1) of the FOIA to contact the complainant and seek clarification of the request. In failing to do so, TfL breached section 16(1) of the FOIA. It is now required to remedy this breach by contacting the complainant and seeking clarification about his request. TfL also breached section 10(1) of the FOIA due to the time it took to respond to the request.
3. The Commissioner requires TfL to take the following steps to ensure compliance with the legislation.
  - Write to the complainant seeking clarification of his request for "*a summary list for each*".
4. TfL must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 19 July, the complainant wrote to TfL and requested information in the following terms:

*"Can you tell me how many risk assessments were forwarded to TfL by its bus operators in 2016 for accidents, vehicle and operational changes; with a summary list for each."*

6. TfL responded on 21 July 2017 acknowledging receipt of the request stating that a response will be sent to the complainant by 17 August 2017.

7. Due to the fact that he did not receive a response, the complainant contacted TfL on a few occasions between 20 August and 14 September 2017.

8. On 4 October 2017 TfL provided a substantive response to the complainant's information request, stating that:

*"Operators have provided 104 risk assessments to us from the start of 2016 as part of the route re-tendering process or following operational changes that result in new or emerging issues being added or updated. Our Framework Agreement sets out the expectation that operators review these following a major event or significant changes. We require them to send us copies of their risk assessments so we know they have them in place. We do not ask them to accompany the documents with the reasons for their submission to us and do not hold the type of summary list you have requested..."*

9. Remaining dissatisfied with the response received, the Complainant requested TfL to conduct an internal review. TfL responded on 12 December 2017 maintaining its original position that in order to extract the requested information from the risk assessment reports would require TfL to produce new information.

## Scope of the case

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10. The complainant contacted the Commissioner on 9 October 2017 to complain about the way his request for information had been handled. The complainant's concern was primarily that he did not accept that TfL did not hold information within the scope of his request for *"a summary list for each"*.

11. Upon review this case, the Commissioner's view was that the complainant's request for summaries was not clear. Given this, she considered whether TfL was under an obligation under section 16 to seek clarification from the complainant about the request before proceeding with it.
12. The following analysis covers section 16 and also records the breach of the FOIA by TfL through failing to respond to the request promptly.

## Reasons for decision

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### Section 16 – Duty to provide advice and assistance

13. Section 16(1) of the FOIA provides that a public authority should offer advice and assistance to any person making an information request.
14. The Commissioner has published guidance on interpreting and clarifying requests<sup>1</sup>, where it is stated that public authorities must interpret information requests objectively. They must avoid reading into the request any meanings that are not clear from the wording.
15. The guidance provides that if the authority finds there is more than one objective reading of the request then it must go back to the requester to ask for clarification. It should not guess which interpretation is correct.
16. Going back to the text of the original request, the Commissioner notes that its formulation lacks clarity and provides different possibilities of interpretation. When read objectively, the last sentence of the request which states "*...with a summary for each*" is not clear. The complainant may have meant a summary of each report or a summary for each category of risk assessments: accidents, vehicle changes and operational changes, or something else.
17. In addition, the Commissioner notes that during the course of the investigation, it became apparent that there were discrepancies between the complainant's intention and TfL's understanding of the request for information. While the complainant's intention appeared to be to receive a summary list of risk assessments categorised in three groups, TfL understood the request to be asking for a summary of each of the 104 risk assessment reports.
18. Having concluded that the formulation of the request was not completely clear and could be open to multiple interpretations, the Commissioner

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1162/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf>

considers that TfL was under a duty to seek clarification from the complainant about his request.

19. By failing to do so, the Commissioner finds that TfL failed to comply with the requirements stipulated in section 16(1) of the FOIA. At paragraph 3 above TfL is now required to write to the complainant and seek clarification about his request.

### **Section 10 – time for compliance**

20. Section 10(1) of the FOIA says that a public authority must comply with a request as soon as possible and within 20 working days following the date of receipt of the request.
21. In this case, the complainant submitted his request on 19 July 2017 and did not receive a response until 4 October 2017. Therefore, TfL breached section 10(1) on this occasion.

## Right of appeal

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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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

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