

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

### **Decision notice**

**Date:** 9 December 2024

**Public Authority:** Transport for London  
**Address:** 5 Endeavour Square  
London  
E20 1JN

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

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1. The complainant has requested information about complaints. The above public authority ("the public authority") initially relied on section 40(2) of FOIA (third party personal information) to withhold all of the information, but subsequently disclosed some.
2. The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of FOIA to withhold the remaining information. The public authority breached section 10 of FOIA as it disclosed some information outside of the 20 working day timeframe.
3. The Commissioner does not require further steps to be taken.

#### **Request and response**

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4. On 28 May 2024 the complainant requested information of the following description:

"According to Freedom of Information Act 2000, I am requesting the following information:

- How many grievances / complaints received against managers in [Road Network Compliance] so far?
- What is the lead time of initial investigation?

- How many grievances / complaints resulted in to formal?
- What were the results of each grievances / complaints?
- How many grievances / complaints resulted challenged.
- How many grievances / complaints are open as of today?

“Also would like to have similar information for:

How many grievances / complaints received against Compliance Offices in RNC so far?

- What is the lead time of initial investigation?
  - How many grievances / complaints resulted in to formal?
  - What were the results of each grievances / complaints?
  - How many grievances / complaints resulted challenged.
  - How many grievances / complaints are open as of today?”
5. On 19 June 2024, he clarified that he was only seeking this data from January 2022 onwards.
  6. On 8 July 2024, the public authority responded. It refused to provide the requested information, relying on section 40(2) of FOIA as its basis for doing so. It upheld this stance following an internal review.

## Scope of the case

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7. At the outset of the complaint, the Commissioner contacted the public authority to challenge its position that all the information was personal information. He noted that those able to identify the individuals concerned would be likely to be those who already knew the contents of the withheld information anyway.
8. The public authority reconsidered its position and disclosed some of the requested information: the number of complaints received; the lead time and whether they “resulted in to formal.” This information was supplied in respect of both managers and compliance officers.
9. The Commissioner considers that the scope of his investigation is to determine whether the public authority is entitled to rely on section 40(2) of FOIA to withhold the remaining information.

## Reasons for decision

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10. Section 40(2) of FOIA allows a public authority to withhold information, that is the personal information of someone other than the requester, if there would be no lawful basis for publishing the information.
11. The complainant argues that, as he only wants to receive numbers, the information is not personal information and should be disclosed. He has stressed that he is not interested in names and is happy to receive anonymised information.
12. Numbers can be personal information, because they can reveal that one or more individuals share a particular characteristic. Whether a particular number is, or is not, someone's personal information will depend on the circumstances.
13. In this case, the public authority has disclosed the number of complaints made against managers and against compliance officers. Those numbers are particularly low.
14. The Commissioner recognises that some compliance officers may be aware that a grievance has been submitted about a particular individual, but are unaware of how that process has unfolded. If the withheld information were disclosed, those officers would not only be able to identify the complained-about individuals, but would also be able to discover further information about how the complaint had been handled and ultimately resolved – this is information which they did not already know.
15. The Commissioner is therefore satisfied that the remaining withheld information is personal information and he has gone on to consider whether there would be a lawful basis for publishing it.

## Legitimate interest

16. As the Commissioner is unaware that any of the individuals whose personal information is being withheld have consented to disclosure (and he notes that the public authority was under no obligation to seek consent, nor the individuals concerned to give it), the only lawful basis for publication would be if that were necessary to fulfil a legitimate interest.
17. The Commissioner recognises that there is a broad interest in public authorities behaving transparently. There is also a legitimate interest in ensuring that internal grievance procedures are operating effectively.

18. The Commissioner also understands that the complainant may have his own private interest in the information.
19. Whilst the Commissioner recognises that there may be some legitimate interest in publication, he is not persuaded that publication is necessary to achieve that interest. Publication would not be a proportionate means of achieving a legitimate aim.
20. The information that has been requested only covers a small section of a much larger organisation. Therefore it can provide only a partial picture (at best) of how the grievance procedure is operating within the public authority as a whole. There are likely to be other mechanisms by which a person can raise concerns about how the grievance process works, in a specific part of the organisation, that don't involve publication of people's personal information.
21. The Commissioner is also unpersuaded that any private legitimate interest that the complainant is pursuing necessitates publication of the withheld information.
22. As publication is not necessary, there is no lawful basis that would allow the information to be disclosed. Consequently section 40(2) of FOIA is engaged.

### **Procedural matters**

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23. Section 10 of FOIA requires a public authority to communicate any information it holds, that is not covered by an exemption, to the requester within 20 working days of receiving a request.
24. As the public authority disclosed some of the requested information after 20 working days had passed from the date the request was received, it breached section 10 of FOIA.

## Right of appeal

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25. 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)

26. 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.
27. 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

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**