

**Date:** 1 December 2021

**Item:** Legal Compliance Report (1 April 2021 – 30 September 2021)

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**This report will be considered in public**

## **1 Summary**

- 1.1 This paper summarises the information provided by each TfL Directorate for the Legal Compliance Report for the period 1 April 2021 – 30 September 2021.

## **2 Recommendation**

- 2.1 **The Committee is asked to note the report.**

## **3 Background**

- 3.1 The Legal Compliance Report is compiled from information supplied through questionnaires completed by each TfL Directorate and follow up discussions concerning known legal compliance issues.

## **4 Scope of the Report**

- 4.1 The Directorates were asked to identify where they are aware of any alleged breaches of law between 1 April 2021 and 30 September 2021. The questionnaire sought responses concerning the following:

- (a) prosecutions against TfL;
- (b) formal warnings or notices from the Health and Safety Executive, the Office of Rail and Road (ORR), the London Fire Commissioner, the Environment Agency, the Information Commissioner or other Government agencies;
- (c) investigations by an Ombudsman;
- (d) alleged legal breaches notified by local authorities or other bodies;
- (e) judicial reviews;
- (f) involvement in inquests;
- (g) commercial/contract claims in excess of £100,000;
- (h) personal injury claims;

- (i) proceedings in relation to discrimination on the grounds of race, sex, disability, age, religion or belief, sexual orientation, equal pay or breach of contract;
- (j) wrongful or unfair dismissal;
- (k) actions to recover unpaid debt in excess of £5,000;
- (l) breaches of EU/UK procurement rules and/or the Competition Act;
- (m) other material breaches of the law;
- (n) any other material compliance issues; and
- (o) any initiatives introduced by Directorates to address compliance issues.

4.2 The reporting periods for the graphs included in this report follow the six monthly Legal Compliance reporting periods from April to September and October to March. Graphs are included where there is sufficient data from which to consider any trend analysis. The graphs commence in the reporting period covering 1 October 2016 – 31 March 2017. Each period includes any ongoing matters carried over from previous reporting periods where applicable. In accordance with TfL's commitment to transparency, the Legal Compliance Report is included in this public paper.

## **5 Commentary on Legal Compliance Issues**

### **Prosecutions**

- 5.1 A notice of intention to prosecute was received on 12 May 2020 from the London Borough of Hackney, for an alleged breach of planning permission for the erection of an external timber deck structure with a canopy at 196 Shoreditch High Street, London E1. Following discussion with the sub-tenant, the structure has now been removed and the matter has been closed.
- 5.2 A notice of intention to prosecute was received on 28 August 2020 from the London Borough of Tower Hamlets for alleged breaches of the Health Act 2006, planning consent under the Town and Country Planning Act 1991 and the Health and Safety at Work Act 1974 in relation to smoking of shisha in a shop at 568 Mile End Road, London E3. Previous enforcement notices received in April 2014 and April 2017 for the same alleged breach were addressed with the tenant. However, in 2020 the tenant reopened the shisha bar. On 5 February 2021, the London Borough of Tower Hamlets charged the tenant with an offence under the Health Act 2006. The tenant was fined and ordered to pay costs. The matter has been closed.

### **Formal Warnings or Notices from the Health and Safety Executive (HSE) or Office of Rail and Road (ORR)**

- 5.3 London Underground (LU) previously reported that the ORR issued LU with an Improvement Notice following the tragic death of a member of the public who fell into the gap between the platform and the train at Waterloo station on the Bakerloo line on 26 May 2020. The ORR confirmed it had closed the Improvement Notice on

22 December 2020. The Rail Accident Investigation Branch (RAIB) has also carried out an investigation and published its report on 21 September 2021 including three recommendations which LU are responding to. A date for the inquest is awaited.

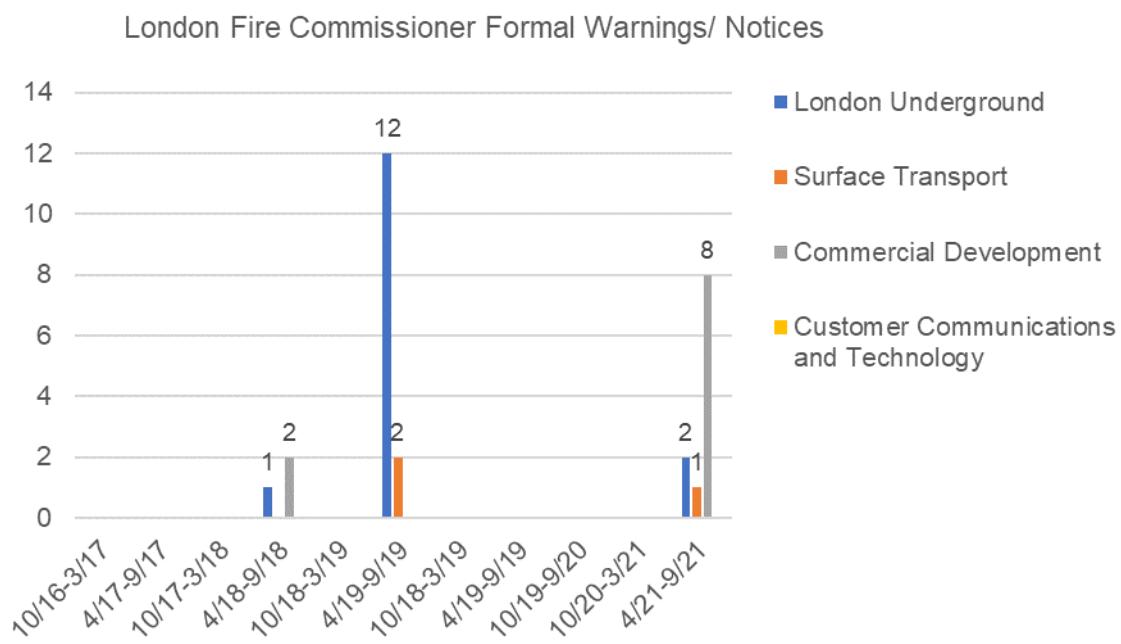
- 5.4 In the last report LU reported a Notification of Contravention, received on 21 January 2021, following a visit in December 2020 from the HSE to the Long Rail facility at Ruislip depot. The notification identified gaps in compliance with the Provision and Use of Work Equipment Regulations in relation to the guarding and isolation of work equipment. LU stopped the use of the machine in question while steps were taken to address all the actions required in the notification. The HSE is satisfied that LU has remedied all the issues and the matter is now closed.

#### **Formal Warnings or Notices from the London Fire Commissioner (LFC)**

- 5.5 Surface Transport reported an Alterations Notice issued on 11 March 2021 by the LFC in relation to Victoria Coach Station. The notice requires LFC to be notified before making any changes to the premises which may result in a significant increase in risk from any change to or the reduction in provision of the sprinkler system and the system capacity and any change to/reduction in the provision of the fire detection and warning system, until such time as the notice is withdrawn.
- 5.6 London Underground reported two new deficiency notices received under the Regulatory Reform (Fire Safety) Order 2005 from the LFC following routine inspections at underground stations during the reporting period. The first notice was issued on 12 July 2021 for Oxford Circus London Underground station for failure to manage tenancies with regards to fire compliance or to ensure that the tenant was compliant with requirements for safe escape routes, suitable storage of flammable substance, adequate storage solutions and electrical safety. Immediate action was undertaken to comply with the notice and the inspection regime has been reviewed. The second notice was issued on 21 July 2021 for Highbury and Islington London Underground station for non-compliance with requirements for storage of flammable materials and use of plastic cable ties to hold up ceiling mesh. The issues were addressed and the inspection regime has been reviewed.
- 5.7 Finance (Commercial Property) reported seven new deficiency notices and one enforcement notice under the Regulatory Reform (Fire Safety) Order 2005, during this reporting period, from the LFC following routine inspections at various TfL retail tenancies at LU stations. A plan has been developed to monitor, support and improve fire safety at the tenanted retail units on the TfL estate.
- 5.8 The first notice was issued on 28 May 2021 on a retail tenant at Bank Monument station for failure to manage fire safety. The tenant has addressed all the issues.
- 5.9 The second notice was issued on 14 June 2021, on a retail tenant at Ealing Common LU station for breaches in relation to electrical safety, lack of fire-fighting equipment, inadequate safety training and Fire Risk Assessment. The tenant has addressed all the issues.
- 5.10 The third notice was issued on 12 June 2021 on a retail tenant at Oxford Circus for fire compliance issues including blocked fire escape routes, inadequate electrical safety and excessive storage of flammable materials. An enforcement notice was

also issued under the Regulatory Reform (Fire Safety) Order 2005 on 12 July 2021 on a retail tenant at Oxford Circus for inadequate storage of flammable substances and goods, lack of electrical safety and insufficient training. The tenant has addressed all the issues in relation to both notices.

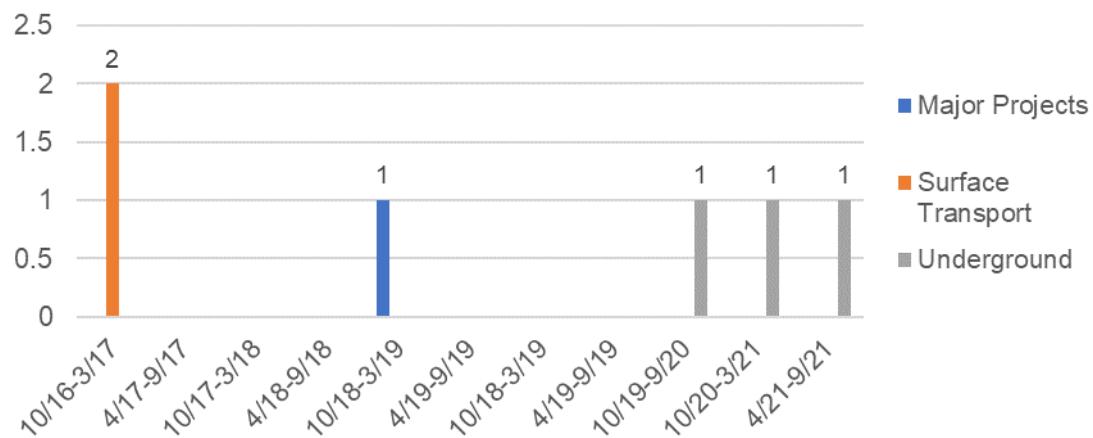
- 5.11 The fourth notice was issued on 31 August 2021 on a retail tenant at Southfields LU station, in relation to issues concerning electrical safety, failure to undertake training and lack of Fire Risk Assessment. The tenant has addressed all the issues.
- 5.12 The fifth notice was issued on 6 September 2021 on a retail tenant at Gloucester Road London Underground station for obstruction of sprinklers, lack of staff training and inadequate Fire Risk Assessment. The tenant has addressed all the issues.
- 5.13 The sixth notice was issued on 7 September 2021 on a retail tenant at Sloane Square LU station for breaches in relation to storage of goods and flammable materials, electrical safety, unauthorised cooking in the retail unit and lack of Fire Risk Assessments. The tenant has addressed all the issues.
- 5.14 The seventh notice was issued on 8 September 2021 on a retail tenant at Hounslow West LU station for matters concerning electrical safety, inadequate staff training and Fire Risk Assessment. The tenant has addressed all the issues.



### Formal Warnings or Notices from the Environment Agency

- 5.15 LU previously reported a notice from the Environment Agency received on 7 October 2019 in relation to equipment containing polychlorinated biphenyls (PCBs) on the train network. The notice required the phase out and removal of all assets containing PCBs by 2023. LU has implemented a removal plan and continues to work to remove the PCBs.

## Environment Agency Formal Warnings



## Formal Warnings or Notices from the Information Commissioner

- 5.16 The Information Commissioner's Office (ICO) investigates alleged instances of non-compliance with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act (DPA) 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the PECR) (together, data protection legislation), the Freedom of Information Act 2000 (the FOIA) and the Environmental Information Regulations 2004 (the EIRs).
- 5.17 No formal action was taken by the ICO in the reporting period in connection with TfL's compliance with data protection legislation.
- 5.18 A requirement of the UK GDPR is for all data breaches posing a risk to individuals' rights and freedoms to be reported to the ICO, within 72 hours, and for affected data subjects to be informed of the breach if it represents a high risk to their rights and freedoms.
- 5.19 One data breach occurred in the reporting period which TfL reported to the ICO. The ICO noted that the risk to individuals was low and did not consider any action was required.
- 5.20 There were 10 new complaints to the ICO in the reporting period about TfL's compliance with data protection legislation.
- 5.21 One complaint related to information withheld from a subject access request, was determined to be unfounded. Four<sup>1</sup> complaints related to late responses to requests for access to personal data. Four complaints related to accidental disclosure of

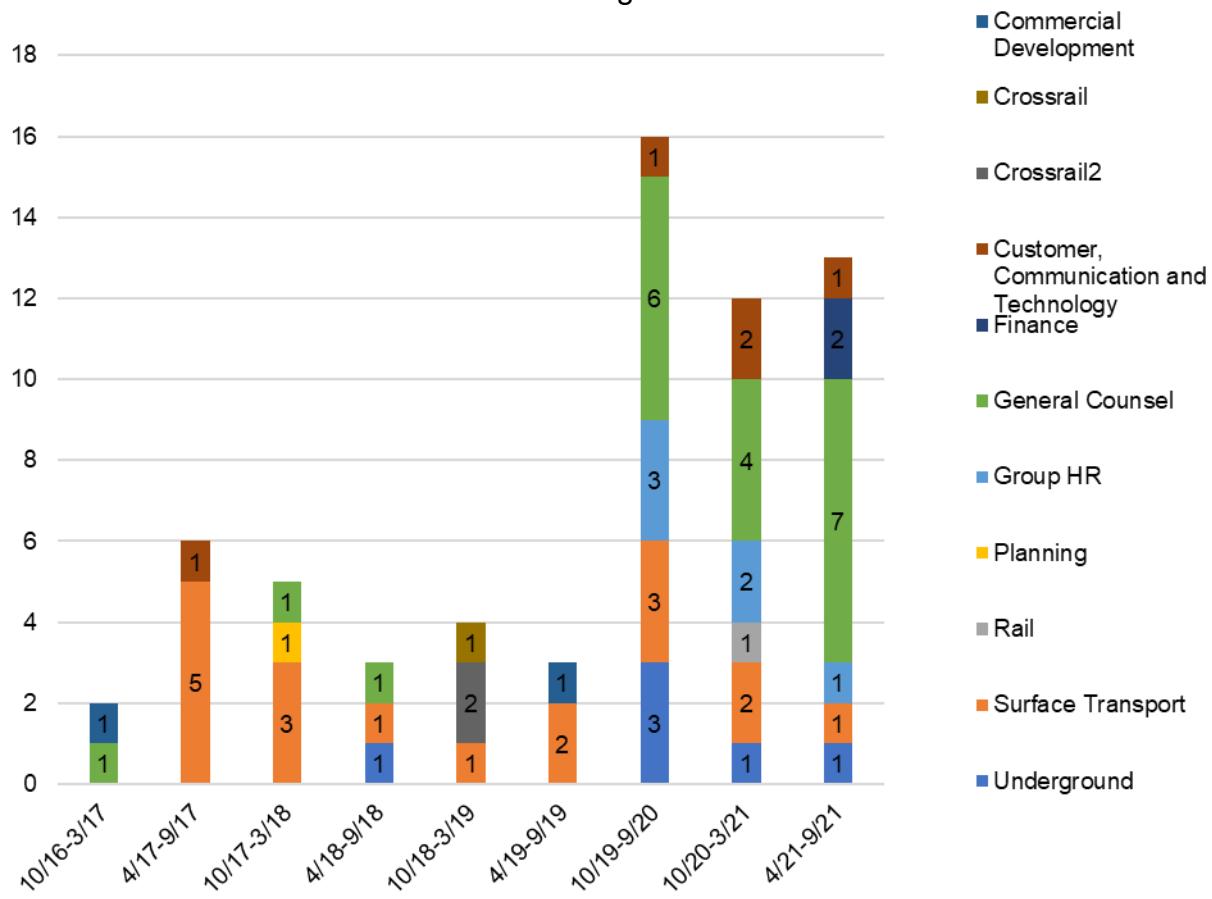
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<sup>1</sup> One complaint was not attributed to a directorate due to information not being available and therefore it is not included in the Information Commissioner Formal Warnings/Notices graph

personal data relating to an individual to the incorrect person. One complaint related to data minimisation, resulting in deletion of data and amendment of a form. In each instance, the ICO found that the legislation had not been complied with but did not consider enforcement action to be necessary.

- 5.22 The FOIA and the EIRs give a general right of access to information held by public authorities. Public authorities are generally required to respond to requests for information within 20 working days and provide the requested information unless an exemption applies. Any person who has made a request to a public authority for the disclosure of information under the FOIA or the EIRs can apply to the ICO for a decision on whether a request has been dealt with in accordance with the FOIA or EIRs. Unless the complaint is resolved informally, the ICO records the outcome in a published Decision Notice. Appeals against the ICO's decisions are heard by the First-Tier Tribunal (Information Rights).
- 5.23 In the reporting period 1059 requests were made to TfL under the FOI Act and EIRs and all were replied to on time.
- 5.24 There was one complaint to the ICO open at the end of the last reporting period, about the refusal of a request under the FOI cost limit. A Decision Notice was issued by the ICO in this reporting period which upheld the refusal.
- 5.25 A further three Decision Notices were issued by the ICO relating to complaints received in this reporting period about TfL's compliance with the FOI Act. In each case the ICO found that TfL had complied with the Act; one complaint concerned the use of the law enforcement exemption to withhold data on the locations where most Penalty Charge Notices (PCNs) had been issued for bus lane contraventions, a second complaint concerned the refusal as vexatious of a request relating to the Hammersmith Bridge and the third concerned the use of the exemption protecting personal data in a request arising from a PCN.
- 5.26 A further two complaints made to the ICO received during this reporting period were resolved informally.

## Information Commissioner Formal Warnings/Notices



## Formal Warnings or Notices from any other Government Department or Agency Indicating a Breach of Law

5.27 No warnings or notices were reported for this period.

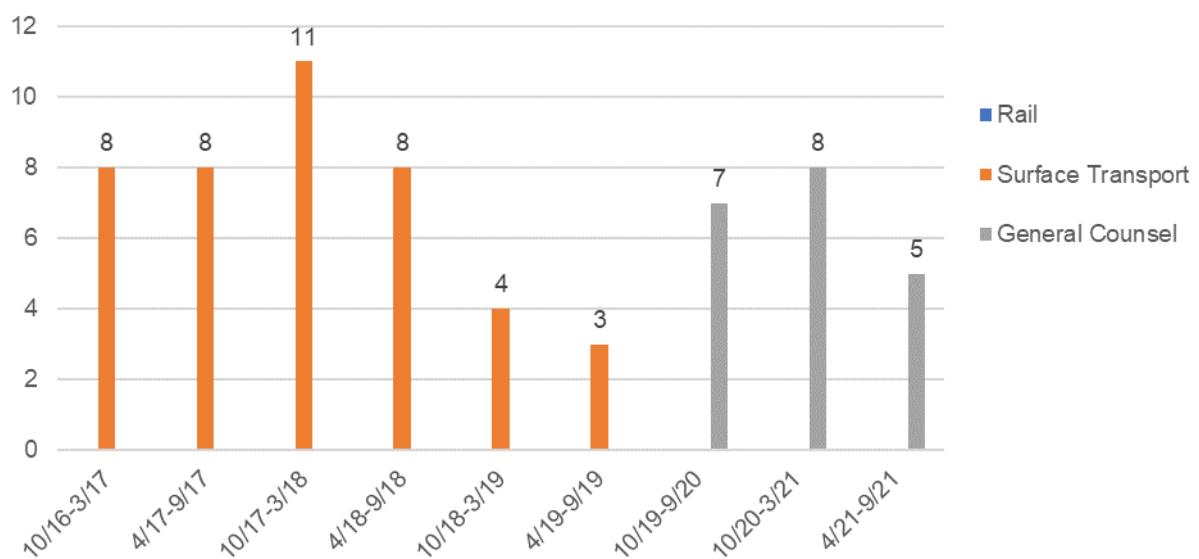
### Investigation by an Ombudsman

- 5.28 In the last report, General Counsel (which includes the Licensing, Regulation and Charging Directorate) reported two outstanding investigations and three new investigations.
- 5.29 In the first outstanding investigation relating to a taxi/PHV licence renewal application, the complainant alleged that TfL's delay in handling their application caused a loss of earnings. TfL, on recommendation of the LGO, acknowledged that there had been a delay in processing the application and offered a payment, but this was rejected. The complainant brought a claim for loss of earnings which the court dismissed on 7 December 2020. TfL renewed its previous offer but this was also rejected and the complainant brought another claim. The matter is ongoing.
- 5.30 In the second outstanding investigation, a complaint was made by a passenger against a PHV driver who alleged they were injured when leaving the vehicle. The

complainant wanted to make a personal injury claim. TfL advised that any personal injury claim must be made through the driver's insurance. The LGO acknowledged that TfL provided the correct advice but found that there was a lack of clarity in responses which caused the complainant inconvenience and delay. On the LGO's recommendation TfL made a payment to the complainant and reminded staff of the procedures to follow.

- 5.31 The first new investigation relates to a complaint about TfL's handling of a representation challenging the issue of Congestion Charging PCNs. The complainant had changed their vehicle listed on their resident discount and asked TfL to transfer their annual charge payment to a new vehicle. The vehicle details were changed but the residence discount payment was not transferred to the new vehicle. This resulted in PCNs being issued to the complainant in error. On recommendation of the LGO, TfL made a payment to the complainant and agreed to review the relevant training to avoid a reoccurrence.
- 5.32 The second new investigation relates to a complaint about TfL's handling of a taxi/PHV licence renewal application in which the applicant's medical declaration was provided by a doctor who is under investigation by the General Medical Council without having reviewed the applicant's medical history. TfL requested a medical declaration completed by the applicant's own doctor. A decision is awaited.
- 5.33 The third new investigation is in relation to a complaint about TfL's handling of a new application for a PHV driver's licence made at the beginning of lockdown in 2020. On recommendation of the LGO, TfL made a payment to the complainant and agreed to process the application in line with procedures.

#### Investigations by Ombudsman

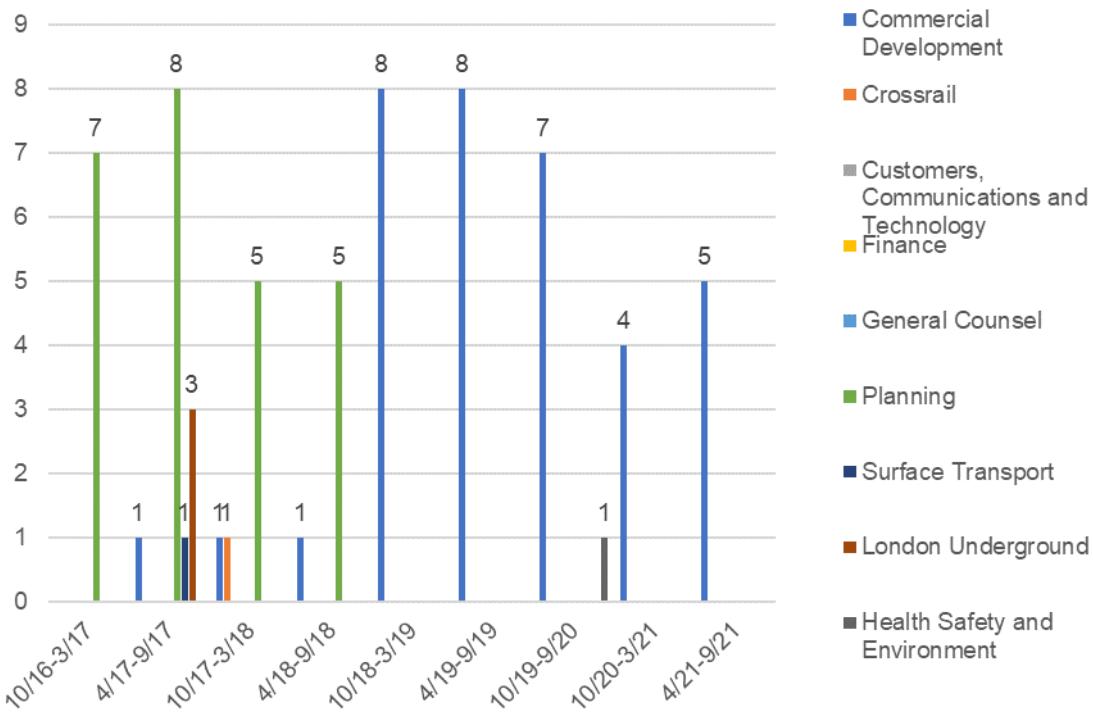


## **Notices Received Regarding any Alleged Breach of Law by a Local Authority or Other External Agency**

- 5.34 Finance (Commercial Development) reported four outstanding enforcement notices carried over from the last report and one new enforcement notice.
- 5.35 The first outstanding enforcement notice (received on 25 February 2014) was from the London Borough of Haringey relating to an unauthorised front extension to units at 231-243 High Road and 249a High Road Tottenham. The tenant failed to remove the extension by 31 July 2014 as required by the notice. TfL wrote to the tenant to remind them of their lease obligations and the risk of prosecution by the London Borough of Haringey. The tenant lodged an appeal with the Planning Inspectorate. The enforcement notice remains stayed while a property management company prepares proposals for the frontages of the properties and all the adjacent properties. In January 2019, the Government approved a London Borough of Haringey Compulsory Purchase Order of TfL-owned land on site to enable a wider borough led regeneration scheme. On 5 August 2021 the developer announced it is no longer progressing with the development. TfL will now seek to remove the unauthorised front extension and will continue to liaise with the London Borough of Haringey to resolve the matter.
- 5.36 The second outstanding enforcement notice (received on 24 January 2018) from the London Borough of Hackney relates to a breach of planning control at a site at Holywell Lane in Shoreditch (under the East London Line). The site is being used as a car park although it was granted temporary planning permission for use as office/ retail/ mixed use. The tenant submitted a planning application to the London Borough of Hackney to regularise the use of the site. The application was refused and the tenant appealed. The appeal was refused, however due to the pandemic the London Borough of Hackney delayed the enforcement action against the tenant until July 2021. The tenancy was terminated on 31 October 2021 and the matter is now closed.
- 5.37 The third outstanding enforcement notice (received on 11 April 2018) was from Westminster City Council regarding a contravention of the control of advertising by a TV screen positioned behind a shopfront of a retail store in the West One Shopping Centre. The tenant confirmed that they have existing planning consent for the shop front and challenged the notice without success. The tenant complied with the enforcement and no further action was taken by Westminster City Council. The matter is closed. TfL has written to the long leaseholder to ensure that the terms of the lease are enforced.
- 5.38 The fourth outstanding enforcement notice (received on 6 December 2019) was from the London Borough of Camden relating to a number of alleged breaches of planning permission at 366/366A Kilburn High Road, London. TfL continues to liaise with the tenant and the London Borough of Camden on this matter.
- 5.39 The new enforcement notice (received on 23 August 2021) was from the London Borough of Havering relating to an advertisement display on a billboard at Upminster Bridge, Upminster Road, without consent. The notice required removal of the

billboard within 28 days. The billboard was removed within the timescale and the matter is now closed.

### Alleged Breaches of Law by a Local Authority/Other External Agency



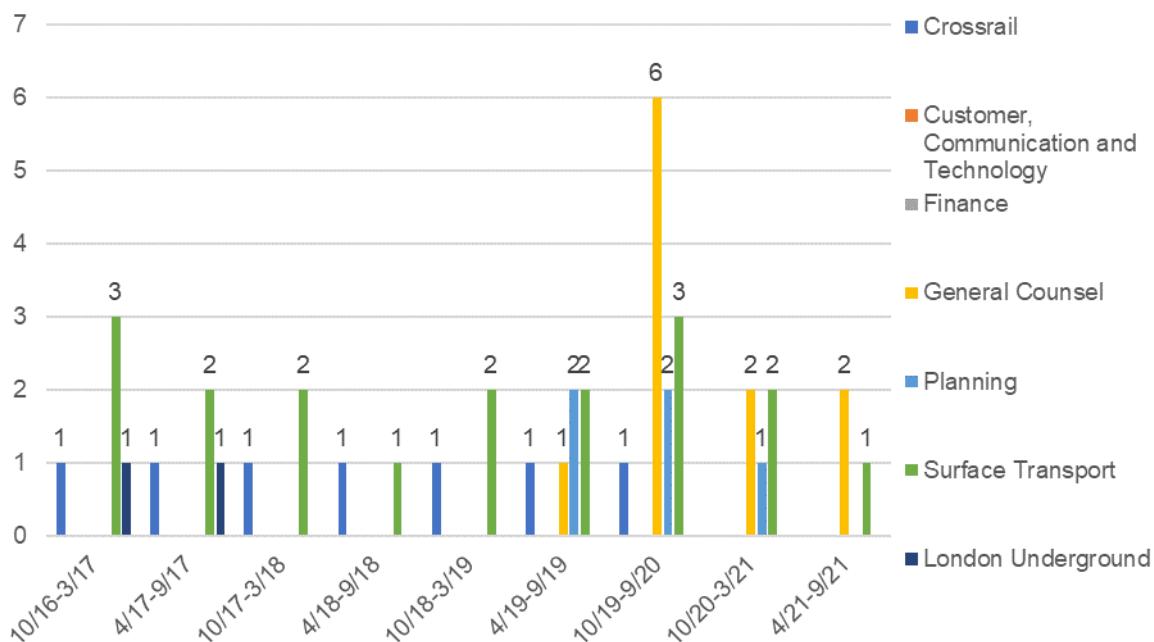
### Decisions Subject to a Judicial Review

- 5.40 Surface Transport reported an outstanding judicial review application issued on 13 August 2020 by the taxi groups United Trade Action Group (UTAG) and the Licensed Taxi Drivers' Association Limited (LTDA) against TfL and the Mayor in relation to TfL's interim London Streetspace Guidance issued to boroughs, the Streetspace Plan and a scheme implemented on the A10/Bishopsgate. On 20 January 2021, the Court allowed the claims and quashed the Streetspace Plan, TfL's interim Borough Guidance and the A10 Bishopsgate Order.
- 5.41 TfL appealed to the Court of Appeal which allowed the appeal on all grounds at a hearing on 15-16 June 2021. The court set aside the grant of judicial review in respect of the Plan, Guidance and A10 Order, and set aside the High Court's orders quashing them. The court made a full costs order in favour of TfL and the Mayor and ordered UTAG and the LTDA to pay £50,000 on account within 14 days. The court refused permission to appeal. On 19 August 2021, UTAG and the LTDA made an application to the Supreme Court seeking permission to appeal. A decision from the court is awaited.
- 5.42 General Counsel reported two outstanding judicial review claims during the reporting period and one claim seeking a High Court declaration. The first outstanding judicial review claim was issued on 6 November 2020 by UTAG against TfL's decision in August 2020 to grant a London PHV operator's licence to

Transopco UK Ltd (trading as “FreeNow”). Transopco is named as an Interested Party and the grounds are that FreeNow enables PHV drivers to ply for hire in London using an App which is unlawful because plying for hire is an activity reserved to hackney carriages and that FreeNow’s drivers are committing a separate offence of accepting bookings without a PHV operator’s licence. UTAG was granted permission to proceed with the judicial review claim on the basis that the Court should look at whether PHVs engaged via apps are plying for hire and whether PHV drivers are accepting bookings. This follows a Supreme Court judgment given in February 2021 in relation to the worker status of drivers operating for Uber and comment in the judgment relating to the contractual relationship between operators and drivers as set out in their terms and conditions and how that affects compliance with the Private Hire Vehicles (London) Act 1998 (the 1988 Act). The claim will be heard from 23 to 25 November 2021.

- 5.43 Uber London Limited also issued a claim on 19 May 2021 seeking a declaration from the Court as to whether the 1998 Act requires a PHV operator who accepts a booking from a passenger to enter into a contract with that passenger to provide the journey. Both TfL and UTAG have been named as defendants and this claim will also be heard from 23 to 25 November 2021 at the same time as the judicial review referred to above.
- 5.44 The second outstanding judicial review claim was issued on 10 November 2020 against the London Borough of Hounslow challenging decisions to implement a temporary version of the proposed C9 Cycleway. TfL, as designer and funder of the scheme, was named as an Interested Party. On 15 November 2021 the claim was discontinued bringing this matter to an end.

#### Judicial Reviews of decisions by TfL<sup>2</sup>



<sup>2</sup> Judicial Reviews in which TfL is a claimant or an interested party are not included in the table.

## Inquests

- 5.45 This section reports on those inquests in which TfL is either a witness, has been asked to provide information to the Coroner or is, or may be, an interested person.
- 5.46 Of the five such inquests relating to LU, one had a conclusion of suicide and one accidental death. The outcomes for the remaining three inquests are awaited.
- 5.47 Of the 11 such inquests relating to Surface Transport, seven inquests had a conclusion of accident and four are awaited.
- 5.48 The seven inquests concerned the tragic deaths of Dane Chinnery, Mark Smith, Donald Collett, Robert Huxley, Phillip Logan, Dorota Rynkiewicz and Phillip Seary on 9 November 2016 when a tram derailed and overturned on a curve as it approached the Sandilands junction in Croydon. Those inquest began on 17 May 2021 before the Senior Coroner and a jury and concluded on 22 July 2021. The jury conclusion was accident and the narrative as to the contributing factors of the accident were:

### Tram Operations Limited (TOL)

- (a) The risk assessment process failed to sufficiently identify the risk of the tram overturning and crashing at the tight Sandilands curve at high speed with the probability of fatalities.
- (b) TOL identified the importance of line of sight driving and route knowledge but failed to identify additional measures to mitigate risk.
- (c) The lack of a “just culture” discouraged drivers from reporting health and safety concerns.

### The Driver

The driver lost awareness and became disorientated ahead of the Sandilands curve probably due to a micro sleep. Following this the driver failed to hit the braking point by which time the tram was travelling too fast to negotiate the Sandilands curve. The result was a high-speed derailment, the tram overturning and seven fatalities.

- 5.49 The Senior Coroner heard evidence at the inquests about Prevention of Future Deaths (PFD) and concluded that there were four areas in which she should make a PFD report with a view to preventing future deaths. One issue addressed to TfL and Bombardier is in respect of current tram stock and the risk of passenger ejection through tram doors. The Senior Coroner states that consideration should be given in relation to current and future trams as to whether tram doors can be adapted now or in the future so as to strengthen them. This has also been addressed to the Department for Transport (DfT) who are asked to disseminate the conclusion to all tram door manufacturers, UKTram to disseminate to UK tramways and the Light Rail Safety Standards Board (LRSSB).

5.50 The other areas which are addressed to other organisations are:

- (a) automatic braking systems – it is appropriate for a fresh assessment to be made of whether automatic braking systems would be appropriate for trams to prevent overspeeding which is addressed to UKTram, DfT and the LRSSB;
- (b) reporting of incidents – all tramway operators consider subscribing to CIRAS (or to another similar anonymous reporting scheme) and look at whether such schemes are used, and if not, why not which is addressed to DfT and UKTram to be disseminated to all tramway operators; and
- (c) a centrally funded national tram safety passenger group – DfT to consider setting up a group that covers all different operators which has also been addressed to Transport Focus.

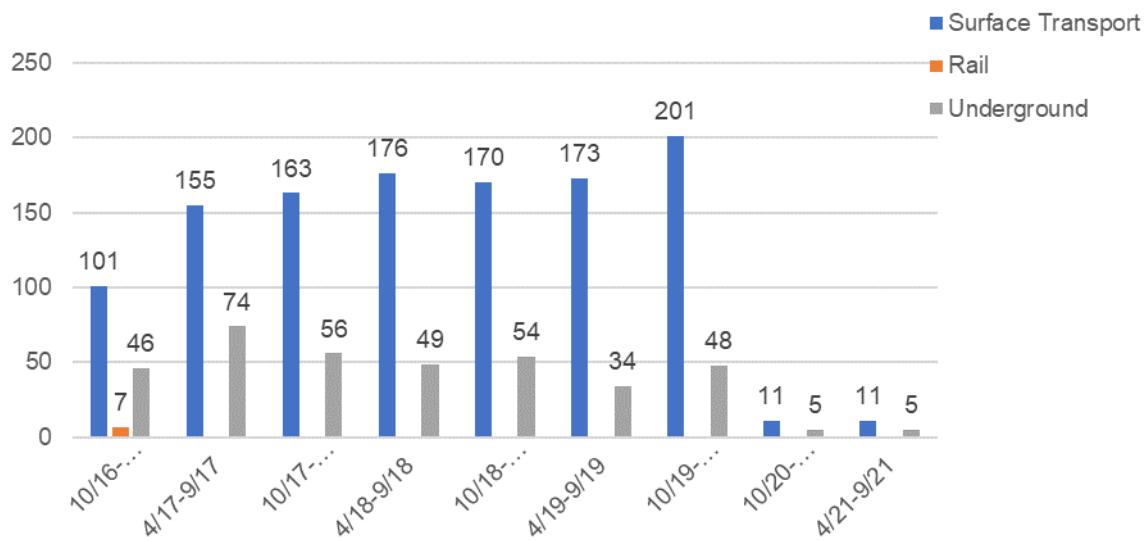
5.51 A response to the PFD report was provided on 17 November 2021.

5.52 Five of the families have written to the Attorney General to request that he considers using his powers under section 13 of the Coroner's Act 1988 to apply to the High Court for an order seeking fresh inquests. The Senior Coroner provided submissions to the AG about her approach to the inquests. The outcome from the AG's review is awaited.

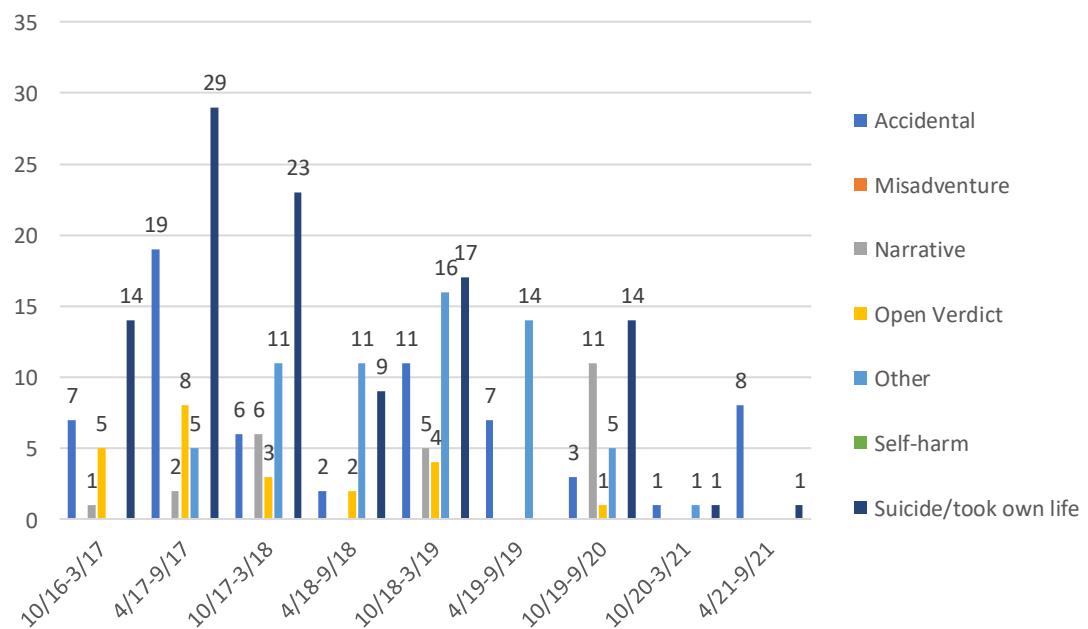
5.53 TfL assisted the Senior Coroner throughout the Inquests. Mark Davis, General Manager of London Trams, was in attendance throughout the Inquests in keeping with our commitment to ensure that we learn lessons for the future to ensure nothing like this accident happens again. Those who lost their lives, their family and friends, and all others affected by this incident remain in our thoughts and we continue to offer support to those people directly affected as well as the wider community.

5.54 The inquest concerning the death of Ella Adoo-Kissi-Debrah concluded in December 2020. The Coroner ruled that Ella died of asthma contributed to by exposure to excessive air pollution. The Mayor and TfL were Interested Persons in the inquest. Ella's family and estate have subsequently issued a claim for damages in the High Court against several Government departments, the Mayor and TfL. The parties are responding.

## Inquests<sup>3</sup>



## Inquest Findings

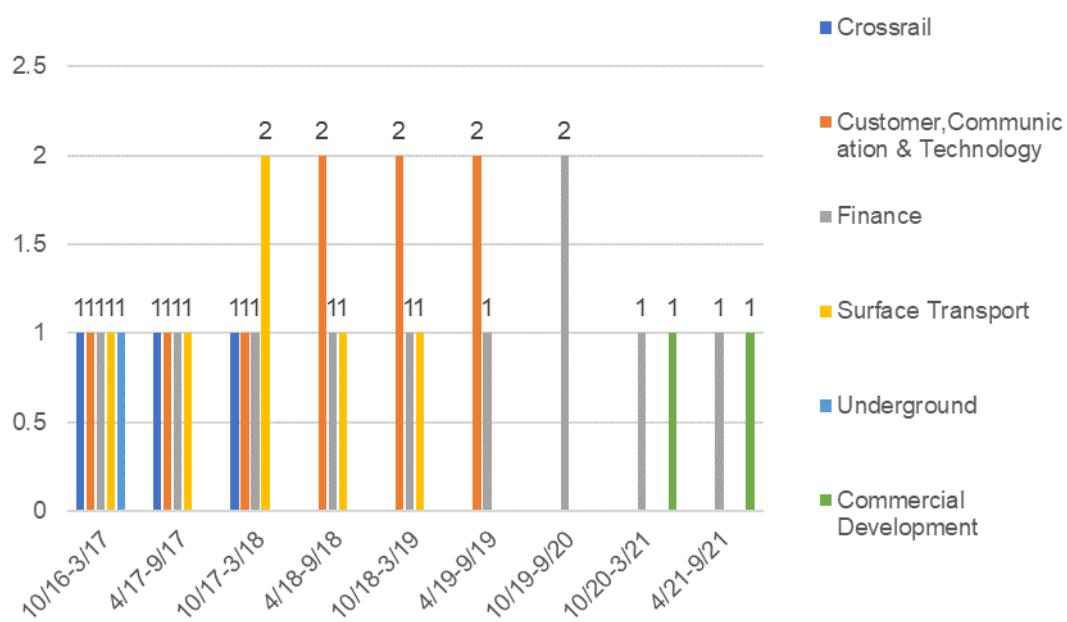


<sup>3</sup> Inquests in which TfL is not an interested party, are not included in the table

## **Commercial / Contract Claims Brought by or Against TfL in Excess of £100,000 (Not Including Personal Injury Claims)**

- 5.55 Finance previously reported that on 9 September 2016 the TfL Trustee Company Limited, TfL's pension trustee subsidiary, issued proceedings against HMRC for overpaid VAT on fund management services. A stay of the proceedings has been agreed, pending the outcome of two test cases. One of the test cases is being appealed and TfL will review its position once that has been determined.
- 5.56 Finance (Commercial Development) reported that legal proceedings were issued on 23 March 2021 against the London Borough of Hackney in relation to the lease arrangements for Kingsland Viaduct. TfL is seeking a declaration regarding future rent payments due to the London Borough of Haringey for remaining term of the lease (75 years). A hearing date is awaited.

### **Commercial/ Contract Claims**



### **Personal Injury Claims**

- 5.57 LU has been the subject of 107 claims for personal injury that were closed during the reporting period, of which 24 claims were employers' liability claims by staff and 83 claims were for public liability by customers/members of the public.
- 5.58 Of the 83 claims for public liability, 63 were closed without payment and 20 were settled.
- 5.59 Of the 24 claims for employers' liability, six were closed without payment and 18 were settled.

5.60 Surface Transport has been the subject of 116 claims for personal injury that were closed during the reporting period, of which one claim was for employers' liability and 115 claims were for public liability.

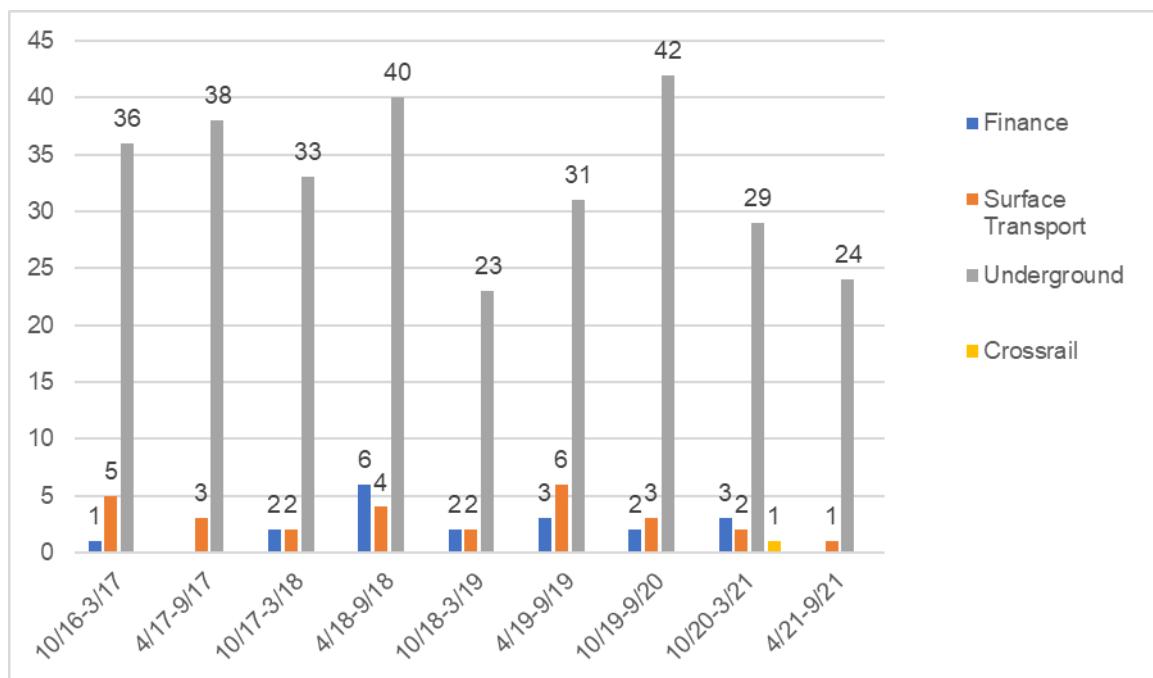
5.61 Of the 115 claims for public liability, 91 were closed without payment and 24 were settled.

5.62 The one claim for employers' liability was closed without payment.

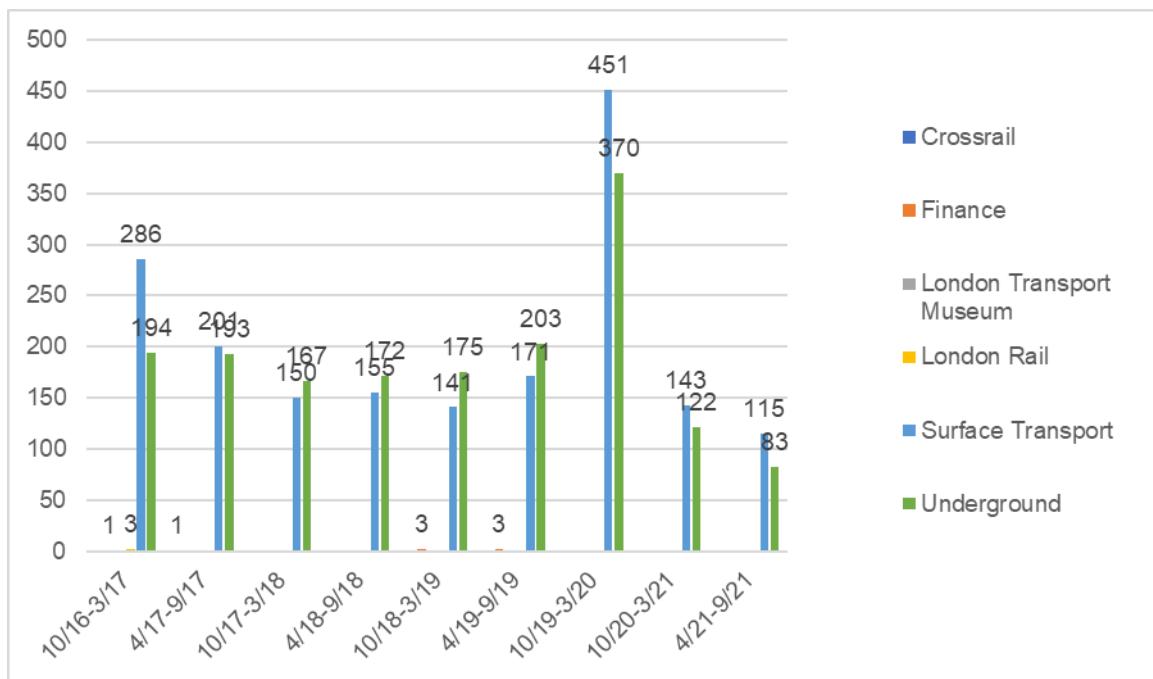
5.63 Out of the total of 223 personal injury claims closed during this period, 161 were closed without payment and 62 were settled.

#### Personal Injury Claims Concluded in the Reporting Period

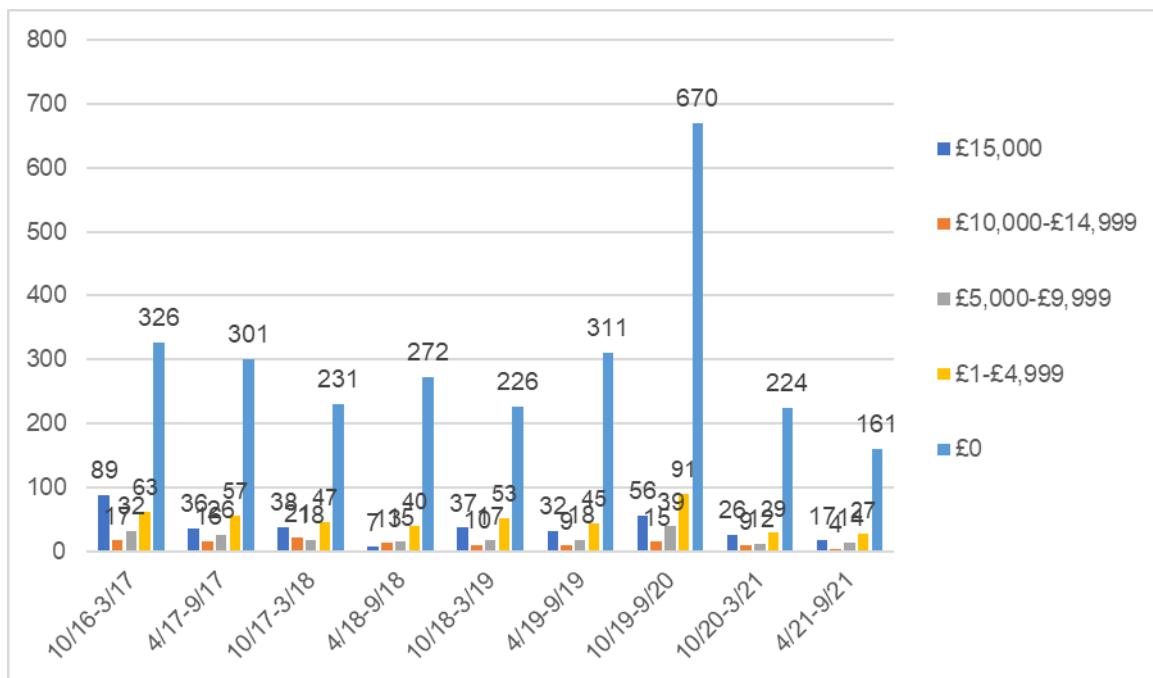
##### Personal Injury Claims – Concluded Employers' Liability (Staff)



## Personal Injury Claims – Concluded Public Liability (Customers)



## Personal Injury Claims – Concluded Cases

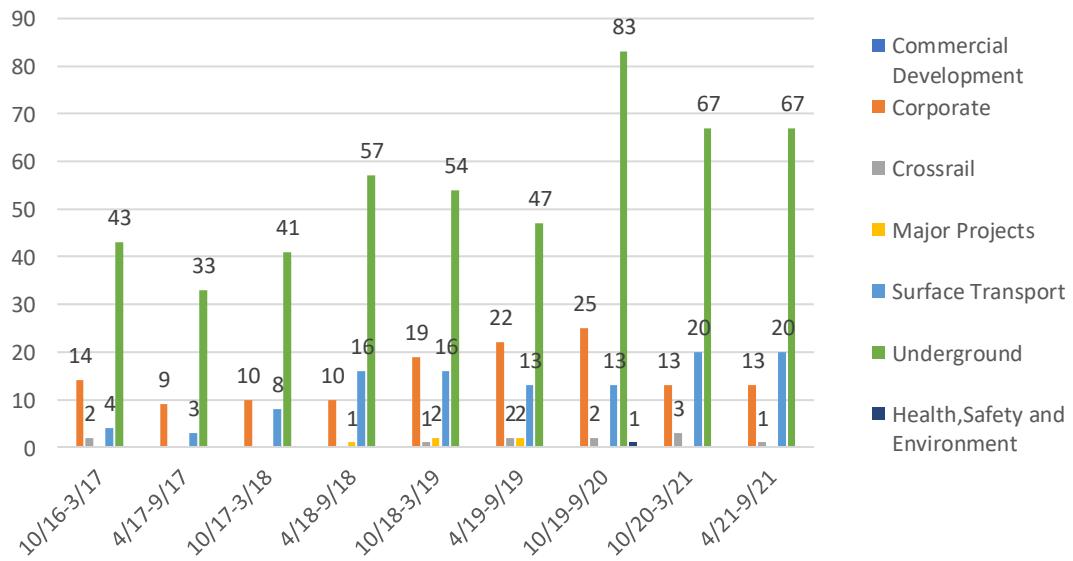


## Employment Tribunal (ET) Proceedings

5.64 TfL continues to take a proactive and robust approach to managing ET cases, coupled with training programme for managers on the latest developments in the law and best practice so as to avoid employment disputes as far as possible.

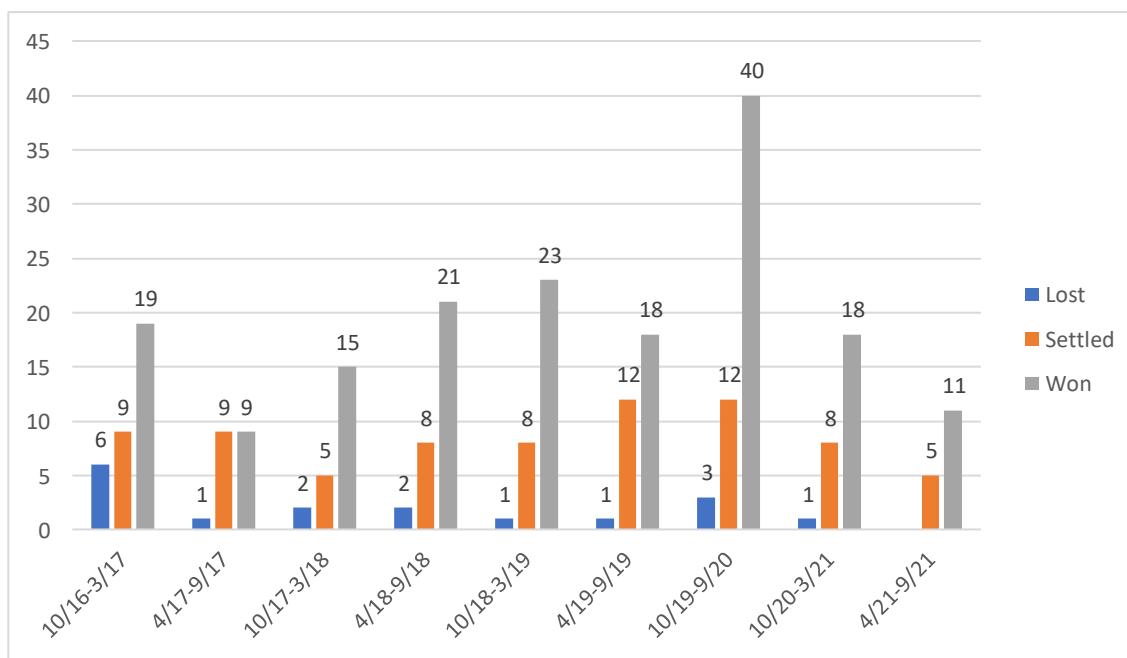
- 5.65 LU has been the subject of 67 ET claims during the period of this report. 48 were carried forward from the previous period and 19 were reported for the first time in this period. Of the 67, 16 were for unfair dismissal, one was for constructive unfair dismissal, 19 were for disability discrimination, one was for trade union detriment, one for trade union rights, nine were for sex discrimination, 13 were for race discrimination, one was for victimisation, one was religious discrimination, one was for breach of contract and four were for unlawful deductions from wages.
- 5.66 Surface Transport has been the subject of 20 ET claims during the period. 18 were carried forward from the previous period and two were reported for the first time this period. Of the 20, five were for unfair dismissal, three were for constructive unfair dismissal, two were for race discrimination, two were for unpaid holiday pay, one was for equal pay, one was for discrimination on the grounds of pregnancy/maternity leave and six were for disability discrimination.
- 5.67 Professional Services have been the subject of 13 ET claims during the period. Nine were carried forward from the last period and four were reported for the first time this period. Of the 13, three were for disability discrimination, four were for unfair dismissal, one was for breach of contract, one was for constructive unfair dismissal, three were for race discrimination and one was for health and safety detriment.
- 5.68 Crossrail has been the subject of one ET claim which was carried forward from the last period. The claim was for unfair dismissal.
- 5.69 Of the total of 101 ET claims brought during the period, 84 cases are ongoing and 17 were concluded during the period. Of the 17 ET cases concluded during this period, three were withdrawn, three were struck out, five were won, and five were settled.
- 5.70 Of the total 101 ET claims, 76 were carried forward from the last period and 25 were reported for the first time during this period.

## Total number of Claims<sup>4</sup>



## Employment Tribunal Cases Concluded

\*Claims won include withdrawn and struck out claims

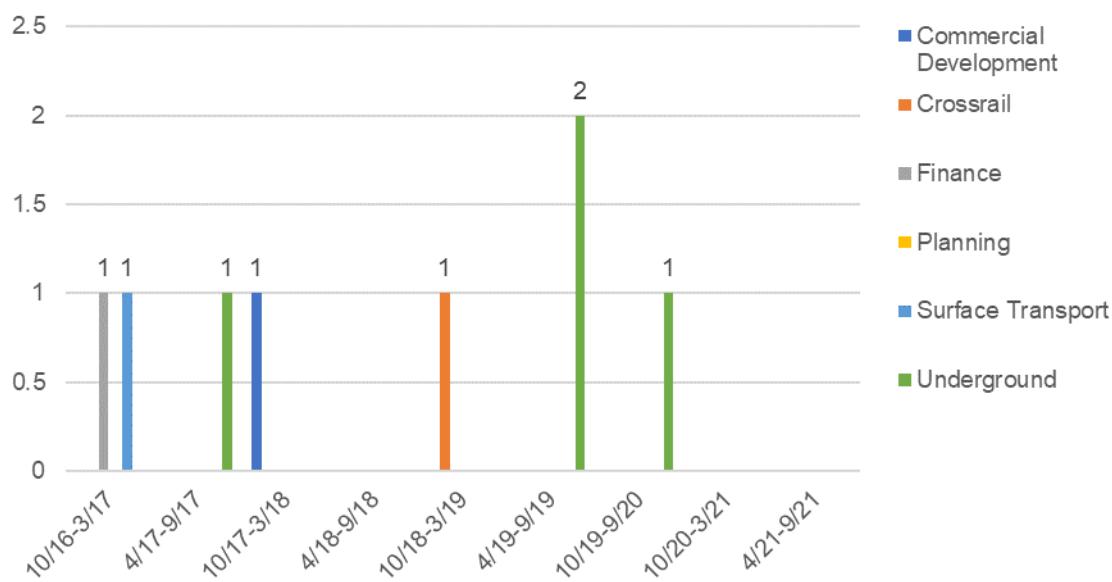


<sup>4</sup> A number of the reported claims have more than one ground of claim (for example a claimant may claim unfair dismissal and race discrimination or sex discrimination and race discrimination). Where this is the case, the claim is reported once. Where claims involve unfair dismissal, these are reported as the main claim. In cases where there is no obvious main claim (such as multiple types of discrimination) one head of claim is selected.

## Civil Debt in Excess of £5,000

5.71 No civil debt claims in excess of £5,000 were reported for this period.

### Unpaid Debt



## Other Material Compliance Issues

- 5.72 Following a BBC broadcast in November 2019 regarding fraudulent practices of some colleges offering BTEC qualifications in London including topographical qualifications required for a private hire vehicle driver's licence, General Counsel reviewed the licences of 422 drivers who obtained their qualifications via a company associated with the allegations. 143 previously licenced drivers had their licences revoked and 279 applicants had their applications refused. Following this action, 80 affected applicants and drivers appealed the decisions to the Magistrates' Court. All appeals have now been dismissed or withdrawn.
- 5.73 Finance (Commercial Development) previously reported a dispute in relation to highways land that was vested in various London boroughs which TfL maintain and was transferred to TfL on 3 July 2000 pursuant to the GLA Roads and Side Roads (Transfer of Property) Order 2000. Of the 32 London boroughs, agreement has been reached for land transfers with 30 boroughs. The two remaining boroughs and TfL referred the various disputes between them to arbitration. Certain issues were then appealed following the arbitrator's decision and the arbitration was stayed to allow this process to take place. This litigation concluded with a Supreme Court judgment on 5 December 2018 in TfL's favour. TfL continues to progress discussions with the boroughs concerning the specific land that is to transfer following this ruling. A further arbitration with the City of London to determine the

outstanding issues on three sites in the City of London took place on 6, 7 and 8 October 2021. A decision is awaited.

- 5.74 Surface Transport reported one outstanding claim from the last reporting period for unpaid invoices brought by a Claimant who provided traffic surveys to TfL. The payments were suspended following an internal investigation and there is also a police investigation. A hearing is awaited.
- 5.75 General Counsel previously reported that on 3 October 2020, TfL notified Ola UK Private Limited (Ola) that it would not be granted a new London PHV operator's licence at the expiry of its licence on 3 October 2020. TfL concluded that Ola was not fit and proper to hold such a licence after discovering a number of failures that could have risked public safety. On 20 October 2020, Ola appealed TfL's decision. The hearing of the appeal is listed for five days on 13-17 December 2021. Pending the outcome of the appeal, Ola may continue to operate and TfL will closely scrutinise Ola and its compliance with the conditions for the duration of the appeals process. The matter is ongoing.
- 5.76 Crossrail reported that on 9 June 2021, a claim was brought by an individual in the High Court against Crossrail (CRL) and a number of its contractors and sub-contractors alleging blacklisting and breach of data protection law. CRL and all the other defendants are defending the claim and the matter is ongoing.
- 5.77 Following the end of this reporting period, Surface Transport reported a new claim arising out of ongoing protests by Insulate Britain on the TLRN and national road network. On 4 October 2021 Insulate Britain staged a protest around Blackwall Tunnel and Hanger Lane in London on the TLRN resulting in obstruction of the highway and significant road traffic disruption. In response to a further protest on the TLRN at Old Street (A501) on 8 October 2021 an application was made to the High Court for an interim injunction preventing further protests designed to obstruct the highway by any persons including Insulate Britain and 112 named defendants. The injunction was granted and covers the A501 (including the area of protests in Old Street) and 13 other key locations on the TfL Road Network, where any disruption in the movement of traffic is a danger. Further protests took place <sup>5</sup>on 27 October 2021 on the A40 Gypsy Corner and on 4 November 2021 on Bridge Street in Westminster which impacted other roads in the area including the TLRN. Following this, an application for a further interim injunction was applied for and granted on 4 November 2021 covering additional key safety locations and A roads including six bridges on the TLRN. TfL continues to monitor the position.

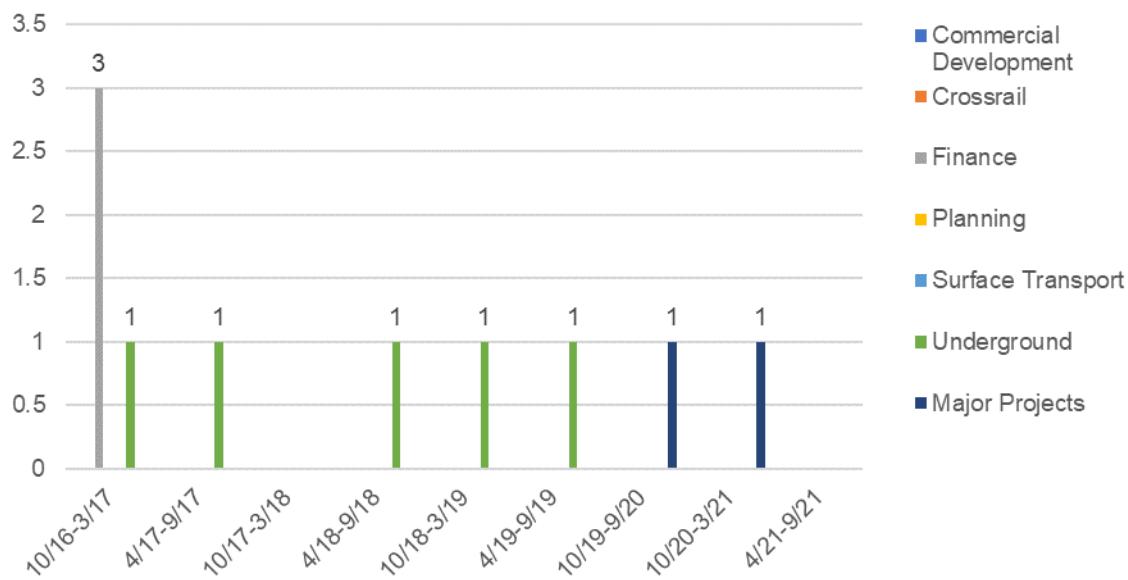
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<sup>5</sup> The report was updated on 10 December 2021 to include reference to the protest action taken on 27 October 2021.

## Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998

5.78 No breaches or alleged breaches were reported for this period.

### Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998



## Other Known Breaches

5.79 No other known breaches were reported.

## Management of Compliance Issues

5.80 TfL's legal and compliance risks are managed as part of TfL's overarching strategic risk management framework. A range of operational and assurance processes are in place to mitigate these risks at all levels in the organisation, taking into account during this reporting period the particular challenges presented in response to the coronavirus pandemic.

5.81 These safeguards are supported by the provision of advice on, and training in, relevant legal and corporate governance issues, which are tailored to the needs of TfL's business units and adjusted where possible to take account of increased home working as a consequence of the pandemic.

5.82 The legal and compliance framework is the subject of continuous review and improvement. Initiatives to address compliance across TfL have included:

- (a) ongoing work to update contractual and commercial templates and forms to ensure they align with legal requirements;

- (b) promoting TfL's compliance with information governance legislation (including the FOI Act, Environmental Information Regulations, The Data Protection Act 2018 and UK General Data Protection Regulation, GDPR) and associated statutory Codes of Practice, including in the area of Transparency to the business;
- (c) training on FOI, Data Protection, GDPR and records management;
- (d) ongoing promotion and refresh of e-learning courses on Freedom of Information, Data Protection and records management, including mobile versions available for staff without PC access;
- (e) the use of Data Protection Impact Assessments, to review proposed new or changed uses of personal data;
- (f) the promotion through the TfL Management System of Information Governance policies, instructions and guidance;
- (g) the promotion and maintenance of a programme of pro-active publication of information, to improve transparency and simplify the handling of FOI requests. This includes the publication of all TfL's FOI replies;
- (h) preparation of replies of FOI/EIR requests (including decisions on the use of exemptions and the application of the fees regulations) and requests from data subjects to exercise their rights;
- (i) carrying out of internal reviews of whether a FOI/ EIR request was handled in accordance with the relevant legislation and responding to the Information Commissioner's Office in the event they undertake any investigatory action;
- (j) monitoring and reporting on performance against the information governance legislation requirements;
- (k) ongoing bespoke training to the business and Human Resources on a range of employment issues including employment law updates, reasonable adjustments requirements and effective case management and providing guidance and best practice learned from ET cases;
- (l) training on a range of legal issues including online training on managing contractor and supplier relations, procurement procedures, the Equality Act 2010 and Public Sector Equality Duty and NEC contracts;
- (m) continued support with the use of TfL's e-tendering system to assist users to comply with the procurement regulations, and to observe the principles of transparency, equal and fair treatment of suppliers;
- (n) continued production of instructions, guidance and templates in the TfL Commercial Toolkit to support compliance with regulations and governance;
- (o) ongoing work to identify and address areas of weakness in TfL's processes, helping to implement corrective actions where appropriate; and

- (p) the ongoing issue of the Commercial Law Bulletin to the Commercial teams to support the dissemination of important messages relating to regulatory and legal issues.

## **6 Conclusions**

- 6.1 The Legal Compliance Report for the period 1 April 2021 to 30 September 2021 sets out the legal and compliance matters of which TfL senior management is aware. There are no material breaches of the law which would affect TfL's continued operations.
- 6.2 Notwithstanding the ongoing impact of the pandemic, reported matters continue to be broadly in line with previous reports.

### **List of Appendices to this report:**

None

### **List of Background Papers:**

None

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