

Date: 21 September 2022

Item: Freedom of Information Update

This paper will be considered in public

1 Summary

1.1 The Freedom of Information (FOI) Act 2000 provides public access to information held by public authorities. The Environmental Information Regulations 2004 (EIR) provide a similar right of access to information which relates to the environment. This legislation is overseen by the Information Commissioner's Office (ICO), the independent regulator enforcing the effective processing of requests by public authorities. This paper provides an overview of our performance in processing FOI and EIR requests in 2021/22, as well as 2022/23 to date.

2 Recommendation

2.1 **The Committee is asked to note the paper.**

3 Background

3.1 The ICO currently expects public authorities to achieve a good level of compliance by replying to at least 95 per cent of all FOI and EIR requests within the statutory deadline (usually 20 working days – the deadline can be extended for FOI requests in the event more time is required to assess whether the public interest favours using an exemption, to withhold information, or for complex EIR requests). TfL has exceeded this target annually since meeting it for the first time in 2017/18.

4 Current Performance

4.1 In 2021/22 TfL replied to 2,769 requests within the statutory deadline from a total of 2,771 received. This provides a response rate of 99.93 per cent of replies being given within the statutory deadline. This figure is just 0.02 per cent below the highest percentage of requests replied to on time within a financial year by TfL since the FOI Act and EIR came fully into force in 2005.

4.2 Despite the impact the coronavirus pandemic has had on all areas of TfL, we have been able to respond within the statutory deadline to 6,260 (99.95 per cent) of the 6,263 FOI/EIR requests we have received since April 2020 to 12 September 2022.

4.3 Appendix 1 provides the response rate broken down by period since 2018/19, as well as the periods within 2022/23 for which we have complete figures so far.

- 4.4 Appendix 2 shows the number of FOI and EIR requests received in each period since 2019/20, along with a breakdown of cases categorised as complex and non-complex. Requests are classed as 'complex' when they have potential to be of wider interest or significance.
- 4.5 Around 73 per cent of all FOI and EIR requests are responded to in full, with 11 per cent relying on a partial exemption and 16 per cent being refused in full due to an applicable exemption. The most common reasons for refusals are because the information is or will be published (27 per cent of all exemptions) or because the time needed to respond to the request exceeds the applicable limit of 18 hours (25 per cent of all exemptions). A further 7.6 per cent of all exemptions apply to protect the personal data of individuals.

5 Freedom of Information Caseload

- 5.1 FOI requests are made about the full range of TfL's responsibilities, and perhaps the most striking aspect of the caseload is its variety. In 2021/22 examples of notable clusters of requests included those around the introduction of the expanded Ultra Low Emission Zone in particular, advertising, cycling infrastructure, Streetspace Programmes and Lower Traffic Neighbourhoods, face covering policy and enforcement and audio announcements used across our services, which are of regular interest to enthusiasts.
- 5.2 Following the significant (30 per cent) drop in request volumes during the height of the pandemic in 2020/21, we have seen a steady increase in volume which has now led to a return to pre-pandemic volumes in 2022/23.
- 5.3 The overall number of requests received in 2021/22 showed a 25 per cent increase on the preceding year (2,771 compared to 2,203). 2021/22 saw an average of 213 FOI and EIR requests per period compared with an average of 169 over the previous year. Each of the 13 periods in 2021/22 saw higher volumes than their corresponding 2020/21 equivalent.
- 5.4 Current volumes in 2022/23 (an average of 231 requests have been received per period) are 21.5 per cent higher than those from the first five periods of 2021/22 and only three per cent below the average figure (of 238) for the first five periods of 2019/20, marking a virtual return to pre-pandemic request volumes. Current request volumes put us on track to exceed 3,000 requests in a year for the first time since 2019/20. Despite the increase in volumes and the continued pressure on TfL we continue to respond to all of these requests within the statutory deadline, having responded on time to 100 per cent of the 1,093 requests we have processed this financial year, up to 12 September 2022.
- 5.5 Appendix 3 directly compares the difference in volumes both cumulatively and by period across the first five periods of 2019/20 to 2022/23.
- 5.6 Replies to all requests received in 2021/22 were published on the TfL website, which supports TfL's Transparency Strategy, and we have been able to answer over a quarter of our requests by simply referring to previously published replies, other information published on the website or by explaining that the information requested is due to be published in the near future.

6 Reviews and Appeals

- 6.1 The progress made in achieving a consistently high response rate across all areas of TfL has required a sustained effort and we maintain a commitment and focus across the organisation on access to information legislation to keep this going.
- 6.2 Should a requester be unhappy with a response to their FOI or EIR request, they have the right to request an internal review into the handling of their request. As a result of the performance highlighted above, and despite the additional pressures the pandemic placed on TfL, we have continued to reduce the proportion of these complaints – 71 (3.2 per cent of 2020/21 caseload) to 81 (2.9 per cent of 2021/22 caseload).
- 6.3 Of the 81 internal review requests into the handling of an FOI or EIR request, six (7.4 per cent, or 0.2 per cent of the total caseload) were escalated to the ICO by the requester for further consideration. Four of the six cases considered by the Information Commissioner upheld our position and found in our favour while the other two cases were resolved informally.
- 6.4 The positive outcome in decision notices mark a continuation of our excellent record where cases are escalated to the Information Commissioner, with TfL not having an exemption overturned by an Information Commissioner decision notice since December 2017. Along with the reduction in the proportion of internal review requests, this appears to suggest that the Information Commissioner and requesters recognise the commitment behind TfL's approach to FOI and our compliance with the legislation. This goes some way to improving how open and transparent TfL is considered to be and enhancing the reputation of the organisation more generally.

List of appendices to this report:

Appendix 1: FOI/EIR response rate by period 2018 to 2022

Appendix 2: FOI/EIR request volumes by period 2018 to 2022

Appendix 3: Comparison of Periods 1 to 4 FOI/EIR request volumes 2019 to 2022

List of Background Papers:

None

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