

Date: 18 September 2024

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. Implementation of this legislation is overseen by the Information Commissioner's Office (ICO), the independent regulator enforcing the effective processing of requests by public authorities.
- 1.2 This paper provides an overview of our performance in processing FOI and EIR requests in 2023/24 (1 April 2023 to 31 March 2024), as well as 2024/25 to date (1 April to 30 August 2024).

2 Recommendation

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

3 Background

- 3.1 In accordance with our transparency commitments and the requirements of the legislation, TfL aims to respond to 100 per cent of all FOI and EIR requests within the statutory deadline (usually 20 working days – the deadline can be extended for FOI requests if more time is required to assess whether the public interest favours using an exemption, to withhold information, or for complex EIR requests). TfL has achieved a compliance rate exceeding 99 per cent each year since 2019/20.

4 Current Performance

- 4.1 In 2023/24 TfL replied to 4,524 requests within the statutory deadline from a total of 4,540 received. This provides a response rate of 99.64 per cent of replies being within the statutory deadline. This figure is just 0.3 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 Request volumes are now at their highest since then. Despite the notable rise in requests, we have been able to successfully respond within the statutory deadline to 12,869 (99.83 per cent) of the 12,890 FOI/EIR requests we have received between 1 April 2020 and 31 March 2024.

- 4.3 Appendix 1 provides the request volumes broken down by the 13 periods of each financial year (1 April to 31 March) since 2018/19, as well as the five periods of 2024/25 for which we have complete figures so far.
- 4.4 Around 67 per cent of all FOI and EIR requests are responded to in full, with 12 per cent relying on a partial exemption and 21 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 (26 per cent of all exemptions) or because the time needed to respond to the request exceeds the applicable limit of 18 hours (29 per cent of all exemptions). A further 7.5 per cent of all exemptions apply to protect the personal data of individuals.

5 Freedom of Information Caseload

- 5.1 In 2023/24 there was a continued notable increase in requests relating to the Ultra Low Emission Zone in the lead up to and after the expansion of the zone in August 2023 (385 cases in 2022/23 to 698 in 2023/24). As well as this, requests around advertising, cycling infrastructure, air quality and public transport reliability all feature as frequent topics of interest.
- 5.2 Following the substantial (30 per cent) drop in request volumes during the height of the coronavirus pandemic in 2020/21, we have seen a continual increase in volume which has now led to request numbers exceeding any previous year on record.
- 5.3 The overall number of requests received in 2023/24 showed a 34.5 per cent increase on the preceding year (4,540 compared to 3,376). 2023/24 saw an average of 349 FOI/EIR requests per period compared with an average of 259 over the previous year.
- 5.4 Current volumes in 2024/25 (an average of 299 requests have been received per period) are four per cent lower than those from the first five periods of 2023/24 which currently stands as the busiest ever year for requests. Based on current request volumes, we project that we will process around 3,800 requests across the year, which would make it the second busiest year on record. Despite these volumes we continue to respond to almost all of these requests within the statutory deadline, having responded on time to 1,412 (99.8 per cent) of the 1,414 requests we have processed this financial year, up to 30 August 2024.
- 5.5 As in previous years, replies to all requests received in 2023/24 were published on the TfL website, which supports the Transparency Strategy, and we were able to answer almost 400 of the 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. We keep internal processes under review to ensure known risks to compliance, including inadvertent disclosure, are mitigated.
- 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. Due to the increase in 'campaign' style requests, we experienced an increase in both the volume and proportion of requests resulting in complaints – 250 (5.5 per cent of 2023/24 caseload) against 128 (3.8 per cent of 2022/23 caseload).
- 6.3 Of the 250 internal review requests into the handling of an FOI or EIR request, 19 (7.6 per cent, or 0.4 per cent of the total caseload) were escalated in 2023/24 to the ICO by the requester for further consideration. Sixteen of the 19 cases considered by the Information Commissioner formally upheld our position and found in our favour and three were resolved informally.
- 6.4 Six of the decision notices issued in our favour by the Information Commissioner in 2023/24 have been appealed by the requester, or an associate, to the First-Tier Tribunal. Five of those are linked requests asking for the make and model of traffic cameras and the other relates to information about graffiti prevention measures. The appeals have all been heard by the Tribunal and a decision was found in our favour on the graffiti prevention case. We await their decision on the traffic camera case.
- 6.5 The positive outcome in decision notices mark a continuation of our excellent record where cases are escalated to the Information Commissioner, which appears to suggest that the Information Commissioner recognises 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 request volumes by period since 2018/19

List of Background Papers:

None

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