IN THE FIRST-TIER TRIBUNAL **Appeal No: EA/2013/0025**

GENERAL REGULATORY CHAMBER
(INFORMATION RIGHTS)

TOJU JAKPA

Appellant

And

THE INFORMATION COMMISSIONER

Respondent

And

TRANSPORT FOR LONDON

Second Respondent

Subject: s40 and s12 FOIA

Hearing: Held on 31 October 2013 at Field House.

Before: Judge Claire Taylor, Nigel Watkins and David Wilkinson

Decision:
The appeal is unanimously dismissed. Accordingly, Transport for London is not required to make any further disclosures.

Date: 3 December 2013

Reasons For The Decision

The Request

1) On 4 May 2012, the Appellant requested from Transport for London ('TFL')

> *"1. Monitoring data of Racial Groupings in TFL. I would like to have the data of:*
>
> *a. Transport Planning Department – London Underground Limited*
> *b. Strategy and Commercials Directorate [later clarified as* the Strategy & Service Development Department]
> *c. Operations Directorate – This is where you have Station Staff and Train Operators*
> *d. London Underground Limited*
> *e. Transport for London"*
>
> ***('Part 1')***
>
> ***"**2. Monitoring Data for Racial Grievances for the following as well:*
>
> *a. Transport Planning Department – London Underground Limited*
> *b. Strategy and Commercials Directorate*
> *c. Operations Directorate – This is where you have Station Staff and Train Operators*
> *d. London Underground Limited*
> *e. Transport for London "*
>
> ***('Part 2')***
>
> *…I am only interested in data collected for 2009/2010 and for data collected for 2010/2011.*

2) The Appellant later clarified:

> *"I wanted to know the numbers and/or percentage proportions of each of the racial groupings in the classification I have identified."*
>
> *"… I am more interested on racial groups which show Black African as a separate racial groups… The numbers and proportions of those who raised racial related grievances in the classification requested…I need to make comparison with the data of Black African employees racial group in proportion with other ethnic groups from the identified classification in my first message."*

3) The subsequent developments are set out in paragraphs eight to fourteen of the Decision Notice of the Information Commissioner's Office ('ICO') Ref. FS5046655 of 21 January 2013. By the time of this appeal, the Appellant had been provided with:

a) For Part 1, all material save for certain data for categories (a) and (c) above, where the number of individuals in each category was 5 or less. TFL decided

to withhold this information at the stage of an initial review, because it considered that it exempt under s40(2) FOIA, as being the personal data of identifiable individuals.

b) For Part 2, TFL initially provided some information. However, during the course of this appeal, the witness clarified that the information was not what the Appellant had asked for, and was in any event inaccurate. Accordingly, nothing requested has been provided in relation to this part. TFL has relied on s. 12 of FOIA (cost of compliance) as regards the entirety of the second part of the request.

4) When the ICO investigated the matter, they concluded:

a) For Part 2: That TFL had properly relied upon s.12 FOIA and the cost of the request exceeded the £450 limit set out in the regulations.

b) For Part 1: Since s.12 FOIA had been correctly applied to Part 2, TFL would not be obliged to respond to any part of the request essentially because they considered that once the cap in costs applied, a public authority was not obliged to provide anything. However, they indicated without providing reasons, that they thought it highly likely that they would have found that TFL had correctly applied s.40(2) FOIA when redacting the information that it had originally disclosed.

The Appellant's Grounds and the Task of the Tribunal

5) The Appellant's grounds of appeal are found within the Notice of Appeal. These may be summarised as:

a) The informal complaint process was not fully completed before the ICO's decision notice was issued and as such the decision was not properly reasoned. *(We refer to this below as a complaint about the ICO's handling of the investigation.)*

b) The ICO was wrong to accept that the redacted information constituted the personal data of TFL staff and TFL's replacement of the exact data with the words "*5 or fewer*". *(We refer to this below as s40(2)FOIA being incorrectly relied upon by the Second Respondent.)* In the provided data there were separate entries for TFL staff whose ethnicity were classified as unknown, prefer not to say, and not specified which collectively made it more compelling for the exact statistics to be provided rather than substituted with the formula of "5 or fewer". Furthermore, it was not possible to know the total number of staff using the statistic of "*5 of fewer*". (*We refer to this below as the data provided was not fully useful.)*

c) The ICO was wrong to have accepted the inconsistency in TFL having provided all the data for Part 1 in relation to categories (b), (d) and (e), and yet not for (a) and (c).

d) The ICO was wrong not to have carried out a balancing act to weigh the

public interest for disclosing the requested information as compared to the public interest for withholding the information. Furthermore, TFL has a duty under the Equality Act 2010 to provide monitoring data relating to ethnicity and TFL responsibility to demonstrate efforts to stem the underlying culture of racism noted in their own equality document.

6) Strictly speaking, the grounds of appeal need to be made at the time the Notice of Appeal is lodged. However, in this case, the Appellant posed many other discrete arguments on separate topics in his various submissions at various times. Some of these were beyond the scope and powers of the Tribunal to consider. However, he made arguments in relation to s12 FOIA, that are within scope and may be summarised as follows:

   a) S.12 FOIA was not engaged because TFL already held the requested information centrally, such that its estimated cost of compliance was inaccurate.

   b) It was too late for TFL to rely on s12 FOIA by the time of the second internal review, by virtue of s17(5) FOIA. (The Appellant additionally seems to have argued that since the cost of gathering the information has already been incurred by TFL, it could not rely on s12 FOIA.)

   c) TFL failed to advise and assist under 16 FOIA, in relation to it seeking to rely on s12 FOIA. The authority should have considered advising the Appellant that by reforming or re-focusing his request, they may have been able to provide information without triggering the £450 Section 12 limit.

   d) The ICO should not have applied the aggregation principle so as to combine Parts 1 and 2 of the request, when considering the cost limits. [1]

7) The Tribunal is independent of the ICO. Our remit is governed by section 58 FOIA. This requires the Tribunal to consider whether the decision made by the ICO is in accordance with the law or whether he should have exercised any discretion he had differently. This is the extent of the Tribunal's remit in this case.

8) As was made clear to the Appellant at the hearing, this Tribunal is not empowered to consider issues raised that are beyond the scope of its remit. The Appellant raised various grounds including the handling of the ICO's investigation, that are beyond our scope. Instead we may hear new evidence and consider the whole matter afresh and make our own findings of fact regardless of what the ICO concluded. Likewise, whether TFL has complied with any duties under equalities legislation is beyond our remit, unless it is factually relevant to whether TFL was wrong to have relied on the exemptions it has claimed. We also cannot assist with the argument that the information so far provided is not fully useful to the Appellant, provided what has been withheld was properly done so under FOIA.

9) As regards the Appellant's arguments set out in paragraph 5(c) above, we have not

[1] See Regulation 5 of *The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004* regarding when separate requests should be aggregated for the purposes of the cost exemption in s12 FOIA.

found a valid ground from this argument. The witness has explained that at the first response stage, the Second Respondent only provided information about staff within the first three classifications. In doing so, he believed TFL had provided sensitive personal data in error. When the decision was considered afresh at the internal review stage, TFL provided more information in relation to the two other categories but redacted the material it considered to be sensitive personal data from those categories. We cannot see how this proper correction of an initial error and the apparent inconsistency that it generated assists the Appellant in his argument that TFL was wrong to consider that s40(2)FOIA applied. The witness openly conceded that it would have been preferable had the 5 or fewer formula been used from the outset.

10) The Appellant's ground set out in paragraph 5(d) above is misconceived. There is no 'public interest test' for an authority to consider in relation to s12 FOIA. To the extent that there is any form of public interest to consider in relation to s40 FOIA, we have not considered it necessary to explore this in this appeal, for the reasons set out below.

Issues Before this Tribunal

11) In summary, the remaining issues for us to consider are:

S.40 FOIA:

i) For Part 1, was TFL wrong to make redactions in reliance on s40 FOIA?

S.12 FOIA:

ii) Should Part 1 and Part 2 be considered separately when estimating the time/costs of complying with the request?

iii) Was it too late for TFL to rely upon s12 FOIA?

iv) Do we accept that TFL made a reasonable estimate?

v) Did TFL fail to comply with s16 FOIA in relation to its duty to advise and assist, so that the Appellant may have narrowed the scope of his request in a way that s12 FOIA would not have been engaged?

12) We were provided with a number of bundles of documents including a witness statement and submissions. We have considered all of this, even if not specifically referred to below.

i. For Part 1, was TFL wrong to make redactions in reliance on s40 FOIA?

13) Whilst the ICO did not consider the s40 exemption in the Decision Notice, the parties asked for this panel to do so.

14) Relevant Law: The ICO's Skeleton Argument of 17 October 2013 correctly

summarises the relevant law at paragraphs 30 to 33 and 44 to 51. It is not necessary to repeat it here.

15) We accept that if the redacted information is personal data (because individuals employed by TFL are identifiable from it and other information which is in the possession of, or is likely to come into the possession of those it is disclosed to, (in this case, the public[2]), it would also be the sensitive personal data of the individuals concerned. This would be because the requested material "relates to" the individuals and reveals their racial or ethnic origin. (In reaching this finding, we accept and adopt the ICO's arguments at paragraphs 34 to 42 of their Skeleton Argument.)

16) As such, we consider that disclosure would breach the first data protection principle referred to in s40(2) FOIA. Accordingly, the information can only be processed fairly and lawfully if one of the conditions in Schedule 2 and Schedule 3 DPA are met. We have not been provided with any condition that has been met and nor have we found one. The most relevant might be condition 6(1) of Schedule 2[3], but we have been given no reason why disclosing the redacted information is necessary for legitimate interests pursued by the Appellant or the public, that would outweigh the prejudice to the rights and freedoms or legitimate interests of the individuals who have clearly not consented to the disclosure of their sensitive personal data. (We accept the evidence of the witness as regards to the lack of consent.)

17) The remaining issues are whether the redacted information is personal data by virtue of individuals being identifiable from it and any other information likely to be available, and whether the material was properly redacted to ensure no personal data is disclosed.

18) The witness explained to us that in respect of small teams within TFL, providing the exact number of staff of a particular ethnic identity would tend to allow any holder of the information to identify the ethnic or racial origin of the individuals. Some of the teams identified were small with low numbers of certain ethnicities. It therefore seemed likely that it would be possible for some members of staff to be identified from this information. We would have preferred TFL to provide greater detail and analysis. However, from our own review of the material before us (included the redacted data), and having gone to efforts to probe the witness, we accept that it is reasonably likely that people with some knowledge and connections within TFL teams could be able to put together to derive from the requested information the ethnic or racial identity of individuals.

19) It is clear from paragraphs 49 to 54 of the witness' statement and his testimony at the hearing that TFL's witness clearly put time and thought into how best to anonymise the material whilst providing useful data with personal data excluded. He considered various methods of anonymising data, and selected that which he thought would give the requester as much as possible of what he was asking for,

[2] The public being of relevance since disclosure under an FOIA request is considered to be disclosure to the world at large.

[3] See paragraph 40 of ICO's Skeleton Argument.

with the data being provided as coherent, informative and accurate as possible.

20) We asked why TFL had selected five as opposed to a lower number as the cut off point where data was redacted, and whether the number should have been lower for larger teams. The witness explained that in relation to smaller teams this was a safe number to ensure no sensitive data was revealed. He believed consistency would then be important across all teams and that this was a workable and practical method within which TFL could select data and comply with the FOIA. He thought otherwise an argument might be made that it was wrong not to apply one formula consistently across all teams. TFL argued that they need to find a reasonable and practical method of anonymising data, and chose to apply a principle across all the data. They had also consulted with the draft ICO guidance on anonymisation that was in one of the bundles, and this indicated that his chosen method and level of "5 or fewer" struck the best balance in favour of releasing as much of the requested information as TFL could while making the chances of identifying particular individuals acceptably low. We accept this.

21) The Appellant questioned whether even with additional information individuals could really be identified because one could never know what ethnic group someone was just by looking at them. One could make assumptions, but not know. However, TFL argued that from a legal perspective the issue was whether someone could be reasonably identifiable, and the level of certainty did not have to be total. We agree with TFL and accept that if the material were not redacted, individuals would be reasonably identifiable.

22) The Appellant also sought to argue that the witness was being disingenuous, based, if we understood him correctly, mainly on his wider experience of dealing with TFL whom he believed had sought to withhold or hide things from him. Consequently, the appellant sought to argue that none of the testimony of the witness was reliable. However, it seemed to us that on the contrary the witness had displayed genuine concern to comply with FOIA and to be as helpful as possible to the Appellant.

23) To conclude, we find that s40(2) FOIA was properly applied so as to redact the requested information.

ii. Should Parts 1 and 2 be considered separately when estimating the time/costs of complying with the request?

24) Most of Part 1 has already been disclosed to the Appellant save for some redacted data under s40 FOIA. The ICO found that none of Part 1 had needed to be disclosed on the basis that Parts 1 and 2 should be aggregated and the total time for providing both parts would exceed the cost limits under s12 FOIA (although TFL had not sought to argue that at the time of the ICO investigation). The Appellant argued that they should not be aggregated.

25) We have not found it necessary to address whether the aggregation was correct. This is because having found that the information redacted by TFL in relation to Part 1 was properly redacted under s40 FOIA, the arguments on aggregation are no longer material. Even if successful, they would not affect the outcome as we

find that no more information under Part 1 would need be disclosed by virtue of s40 FOIA.

iii. Was it too late for TFL to rely upon s12 FOIA?

26) The Appellant sought to argue that it was too late for TFL to rely on s12 FOIA by the time of the second internal review, by virtue of s.17(5) FOIA.

27) It is our understanding that s.17 FOIA does not preclude an authority from relying on s.12 FOIA at a late stage.

28) However, we have been provided with court decisions indicating that where material has been provided to a requester, the authority cannot subsequently seek to rely on the cost exemption under s12 FOIA, presumably because it would be disingenuous for them to do so, having already invested the time in complying with the request. TFL had provided most of Part 1 before the ICO (but not TFL) decided to rely upon s12 FOIA, and therefore already undertaken the costs associated with compliance. It had not provided the accurate material in relation to Part 2. Therefore if there were any validity to this argument, it would only be in relation to Part 1. For the same reason as set out in paragraph 25 above, we do not consider it necessary to consider the substance of this issue in relation to Part 1, because arguments on late reliance regarding Part 1 are no longer material. Even if successful, they would not affect the outcome as we find that no more information under Part 1 would need be disclosed by virtue of s40 FOIA.

29) The Appellant may additionally have been arguing that in relation to Part 2 since the cost of gathering the information has already been incurred by TFL, it could not rely on s12 FOIA. However, we do not accept on the facts that TFL had already gathered the information. This is discussed further in the following section.

iv. Do We Accept that TFL made a reasonable estimate?

30) Under s.12 FOIA, a public authority is not obliged to comply with a request at all if the cost of doing so would exceed the specified cost limit set in *The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004* (the 'Fees Regulations'). This limit is, for TFL's purposes, equivalent to an estimated 18 hours' worth of work.

31) It is not disputed that in applying s.12 FOIA, a public authority needs to make a '*reasonable estimate'* of anticipated cost (i.e. time) taken to comply with the request. In calculating this, it may consider the time taken to determine whether the requested information is held; to locate it; to retrieve it; and to extract it.

32) TFL's case is that the time it would take to provide Part 2 would exceed the limit. Their witness stated that he had investigated how to retrieve the data for Part 2. He found out that TFL did not hold centrally with HR their grievance files, or record centrally the level of detail sought in the request. TFL's grievance files are not held centrally by the Human Resources department (HR), and there is no central record containing the level of detail sought in the request. He said such information could only be derived by checking each grievance file to ascertain

their relevance to the request. That would involve:

a) First, all grievance records held in TFL's central database would have to be checked to identify which managers had carried out investigations.
b) Second, contacting each manager so identified so that they could each locate, identify and check relevant records to assess which of the grievances they investigated had racial discrimination as a factor. The witness considered that while it might take less time in some cases, in others it would take significantly longer. (As the request covered two financial years, the managers would have to check their records in order to confirm which cases would be of interest, rather than being able to remember this information.) We probed this issue at the hearing. The witness made clear that the broad wording of the request, encompassed any kind of grievance. TFL's policy was for the line manager to generally deal with a grievance at a local level. Some files would be in hard copy, others held electronically. There was no shortcut to access local drives to review electronic data, as it was only accessible to the individuals with the relevant permissions. He had previous experience of subject access requests under the data protection legislation, and knew that it was not uncommon for there to be difficulties accessing 'legacy' data where the manager had moved on. There was also no consistency across the various divisions of HR dealing with the different business modes.

33) He thought that a conservative estimate for this would be 5 minutes for each grievance file. This was based on him halving the actual estimate that he seemed to think more realistic, namely:

a) It taking three minutes per grievance, for contact to be made with HR and for them to consult their records, identify the investigating manager and report back with the relevant name.

b) Two minutes per file for him to use the information provided by HR from the previous step to write to each investigating manager to explain the context, provide them with the details of the grievance investigations that they had carried out and ask them to reply to me with the number of grievances that met the description of the request.

c) Five minutes for the investigating managers to locate each investigation file, check it to see whether the grievance fell within the scope of the request and ask them to reply with the number of grievances that met the description of the request.

34) During this appeal, TFL discovered that their initial estimate of the total number of grievances over the two years (913) was too high and needed to be corrected down by a considerable amount to 607. This is a significant variation. However, we were ready to accept that it was an error made in good faith, openly admitted and convincingly explained by the witness who said that the system TFL used to record grievances potentially recorded any one grievance up to three times, (once for the initial investigation, once for the hearing, and once for the appeal).

Although not all grievances would go through all three stages, the system therefore carried an inbuilt bias to overstate the number of grievances. Unfortunate though this error was, the fact remained that the revised estimates for 2009/10 of about 267, and for 2010/11 of about 340, still produced a total whose effect took the cost estimate significantly above the limit of £450.

35) The conservative estimate of 5 minutes per grievance therefore amounted to 50 hours 35 minutes.

36) The Appellant's challenge to this was because, according to him, the TFL already held the material centrally. For instance:

a) Responses he had received to questions posed to TFL[4], including about claims brought to the Tribunal, which he argued were indicative that they had already gathered the relevant material. However, this did not indicate that TFL held the information requested, because the relevant question was narrower than that in Part 2. Some of his evidence may have indicated TFL held the material in Part 1 centrally, but this had not been disputed.

b) He provided the London Underground's rules on formal procedures or grievances. However, this supported the witness testimony that it is generally the next level manager who deals with a grievance.

c) The Appellant appeared to argue that material was available centrally on a recording system that he was aware of, and that TFL sought not to provide it for other reasons. However, we were not provided with any evidence in support of this, and generally did not find this assertion persuasive.

d) He referred us to TFL's Annual Workforce Monitoring Report 2012/13, which stated:

i) '*Since the introduction of the data management system in 2011 to catch disciplinary, grievance and harassment outcomes, The robustness of the information across the organization has been enhanced, Resulting in a consistent approach on reporting on these cases*.' (Page 28)

e) We were not provided with much detail about this, and it was submitted shortly before the hearing. However, since the system was stated to have been introduced in [July] 2011, it seemed to us that this was too late to have had a significant bearing on the request which was in respect of the financial years 2009-10 and 2010-11. It also seemed to reinforce the argument that prior to 2011 the centrally held information on grievances was not particularly robust.

f) In a different bundle, the Appellant had provided an extract from a July 2011 monitoring report where TFL had stated:

[4] Such as was found at page 143b of the bundle that was submitted shortly before the hearing.

i) '*TFL has introduced a new data management system which captures all information on grievances, harassment and disciplines across the organisation… the data below is for TFL's Corporate and Service Transport directories. LU is currently ensuring all its data has been transferred onto the new system and will be added to this report on July 2011*…'

g) We were not provided with the full report, and what we were given did not seem to show what data had been transferred by the relevant directories, what would be transferred by 'LU', and whether it would be broken down in a way that would indicate that TFL did hold the information requested centrally at the time of the request. It was therefore difficult for us to make anything of the information described in sub-paragraphs d) and f) above.

h) The Appellant stated that grievances at TFL are either formal or informal. In an informal process, it would be discretionary as to whether to inform HR, but as a matter of good practice, HR were informed for the components to be recorded for statistical monitoring purposes. In the formal grievance it was mandatory to disclose the information to HR. He referred to us to a document setting out the grievance procedure dated 2010. This stated that for a formal procedure, *'the manager must inform the PMA of the grievance for recording purposes and so that where applicable they could provide support, to help resolve the matter.* ' Again this was material handed to us in hard form shortly before the hearing, which we agreed to read after it. It seems that PMA stands for a 'people management advice' specialist whose role is to act impartially, advising and guiding managers and employees, and to ensure the procedure is followed. However, we were not given sufficient satisfactory argument to see how this supports the Appellant's case. The Appellant did not dispute that he his request included data about informal grievances, (and in any case, this seems to be the first time this distinction was made). Further, assuming that the PMA is located within HR, TFL's witness stated that HR was dispersed amongst the various teams or modes, and we were not given information showing that the PMA what the PMA would've done with the data. So, again, it was difficult for us to make anything of the material provided.

i) We were also presented with TFL's publication, 'The Race Equality Scheme 2008 to 2011'. In a section on How TFL will meet specific duties, it included a delivery objective on Grievance Procedures:

i) *'Group HR services will produce a quarterly report and information will be included… this information will focus on people who have raised grievances as well as those who have been cited in a case Will stop it will include information on the results of grievance processes*.'

j) TFL's witness stated that regardless of what was stated in this document, TFL did not hold centrally the information that had been requested by the Appellant. We found this to be unfortunate but accepted that this was so. It was clear from the detailed information before us about how TFL had handled the request and the extensive communications it had with the Appellant, that the public authority had tried their upmost to comply with the request, to the extent that it was possible, and had acted in good faith, notwithstanding the

Appellant's strong beliefs and assertions to the contrary. We had no reason not to believe what the witness told us about TFL's record-keeping system and, whatever we think about the absence of any central system for recording vital employment grievance statistics, and it hardly seems ideal, our decisions must be made on the basis of the facts of the case.

Our Finding

37) On this basis, we accept that TFL did not hold centrally with HR their grievance files, or record centrally the level of detail sought in the request.

38) We have considered the estimate provided to us by TFL. The Appellant did not put forward arguments that the time for each stage calculated by the witness was unreasonable. Nevertheless, we probed the witness on this matter. We found it unfortunate that no one at TFL had taken a small sample from the total 607 grievances to make a realistic check of the average time that it would have taken to assemble the material per grievance. However, our concerns on this score were allayed by knowing that in practice even had it been possible to deal with each case in as little as two minutes on average (in our view a practical impossibility), this would still have amounted to an exercise lasting over 20 hours. We concluded our analysis secure in the knowledge that the estimate was reasonable in confirming that the 18 hour limit would be exceeded. Whilst there may be cases where an individual manager may have dealt with more than one grievance, we accept that the request was sufficiently broad for there to be likely to be many managers to contact and for it to take some time to locate and communicate with the relevant individual line manager and this too could be factored in. Additionally, the Appellant's request was for an extremely broad area, because category E in his request incorporates all grievances across the whole of TFL.

v. Did TFL fail to comply with s16 FOIA in relation to its duty to advise and assist?

39) Section 16 FOIA places a duty on public authorities to provide reasonable advice and assistance to requestors, and this may include reasonable advice on narrowing a request where it exceeds the cost limit set out in s12 FOIA.

40) On 21 September 2012, TFL's witness responded to the Appellant, stating that compliance with his request would exceed the cost limit. However, he then made clear that this did not mean that TFL would necessarily be unable to provide him with any information of this type. He stated: '*we would need you to refine your request in order to enable it to be handled within the cost limit. For instance, you might ask for information relating to a more limited area up of transport for London, such as a single Underground line or business unit. You might ask for information covering a more limited time frame. I cannot confirm that we would definitely be able to process such a request under the cost limit, but we would consider to consider it as a new request.*'

41) We were also referred to a summary of the considerable correspondence between the parties set out in pages 187 to 188 of the original bundle, which the ICO additionally argued illustrated that TFL had satisfied its duty in this regard.

42) The Appellant did not reply to TFL about refining his request. He stated that he had 'lost faith' with the length of time it was taking to get the information and that TFL's approach was disingenuous since he would now have to make new request. We consider the reference in the 21 September letter to '*a new request'* is to be unfortunate. Nevertheless, given that the Appellant never responded it is hard to see what more TFL could do and we consider that it complied with its s.16 duty.

43) In conclusion, we dismiss this appeal. Our decision is unanimous.

Other

44) There were five separate bundles before us, with different numbering systems, the last of which was handed to us at the start of the hearing was very long and included a lengthy submission. This delayed the production of our decision.

Judge Taylor

3 December 2013