

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 9 May 2011

Public Authority: Transport for London
Address: 6th Floor
Windsor House
42-50 Victoria Street
London
SW1H 0TL

Summary

The complainant requested, under the Freedom of Information Act 2000, a copy of the Formal Investigation Reports it had issued. Transport for London responded late and provided the information requested in slightly redacted form.

The complainant referred the delays to the Commissioner and confirmed he wanted a Decision Notice to be issued about the delays he had experienced.

The Commissioner has carefully considered this case and finds that the public authority breached section 10(1). An appropriate response has now been provided and the Commissioner does not therefore require remedial steps to be taken in this case.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. In response to an earlier request, the Transport for London ("TFL") confirmed that 13 Formal Investigation Reports ("FIRs") has been issued and provided a list of them.

3. On 11 November 2010 the complainant then requested:

'Can you please provide me with copies of all of the FIRs which have been completed ("issued", in your terminology), as reported in your list.'

4. On 18 November 2010 the request was acknowledged. On 11 December 2010 the complainant requested an update about not receiving a response. On 15 December 2010 correspondence was exchanged which explained that the request was under consideration.
5. On 10 January 2011 TFL issued the first part of its response. It provided slightly redacted copies of the first six FIRs, withholding some information by virtue of section 38(1) (prejudice to the health and safety of an individual). The complainant asked for it to clarify how the exemption applied and explained that he was referring the delay to the Commissioner on the same day. In relation to the exemption, an internal review was conducted and the result was communicated on 27 January 2011.
6. On 27 January 2011 the complainant explained he was very dissatisfied about not receiving the remaining FIRs within the statutory time limits. On the next day, TFL clarified that the request asked for the completed FIRs and that was what was being considered in this case. It acknowledged that there were seven FIRs outstanding.
7. On 11 February 2011, TFL issued the second part of its response. It provided slightly redacted copies of three other FIRs while withholding one entirely. It provided its arguments about why it believed that section 38(1) applied. It acknowledged that three FIRs remained outstanding. The complainant requested an internal review on the same day.
8. On 14 February 2011, TFL explained that it had revised its position in relation to the FIR it was withholding entirely. It now provided a redacted summary of it and the complainant agreed that this satisfied this part of his request for an internal review. The results of the remaining aspects of the internal review were communicated on 25 February 2011. The complainant wrote back on the same day to explain that he didn't wish to take this matter further, but asked for the remaining three FIRs to be provided.
9. On 24 March 2011, TFL issued the final part of its response. It provided two complete FIRs and a slightly redacted copy of the third one. The redactions were again made under section 38(1). It also provided its internal review details.

The Investigation

Scope of the case

10. On 10 January 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider that TFL responded very late and that it had not at that time issued a full response.
11. During the course of his investigation, a full response about the outstanding information was provided on 24 March 2011. On 28 March 2011 the Commissioner explained that he would now issue a Decision Notice about the delays the complainant had experienced in this case. The complainant agreed with this course of action on 30 March 2011.

Chronology

12. On 10 February 2011 the Commissioner wrote to both parties. He asked TFL to issue an appropriate response to the remaining aspects of the request in ten working days. He told the complainant what he had done and asked him to get back in touch if he did not receive a response in ten working days.
13. On the same day, the complainant wrote to the Commissioner. He explained that he would not accept anything less from the Commissioner than a Decision Notice about the delays.
14. On 3 March 2011 TFL wrote to the Commissioner to explain the reason for the delays in this case. It confirmed that every effort was now being made to provide the remaining three FIRs.
15. On 16 March 2011 the Commissioner called TFL to ask about progress in this case. On the following day, he wrote an email explaining that the delays were totally unacceptable and asked for the remaining FIRs to be processed as soon as possible.
16. On 17 March 2011 the Commissioner wrote to the complainant. He explained that his investigation would ensure that a response was provided in relation to the outstanding FIRs and would then focus solely on the delays that had been experienced.
17. On 24 March 2011 TFL issued a response in relation to the outstanding FIRs. The Commissioner wrote to the complainant on 28 March 2011 to explain that he would now issue a Decision Notice in relation to the delays. On 30 March 2011 the complainant agreed with this course of action.

Analysis

Procedural Requirements

18. As noted above, this Decision Notice is solely concerned with the delays the complainant experienced in this case.

Section 10(1)

19. Section 10(1) states that:

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt'.

20. In this case TFL failed to process the request within the twenty working days stipulated in section 10(1). Instead it took:

- 40 working days to consider FIRs 1-6;
- 64 working days to consider FIRs 7-9;
- 65 working days to consider FIR 10; and
- 93 working days to consider FIRs 11-13.

21. In failing to process the request in twenty working days, TFL failed to comply with section 1(1)(a) (confirmation or denial that it held information) and section 1(1)(b) (the provision of that information) within twenty working days.

22. TFL therefore breached section 10(1) in its handling of the complainant's request. The Commissioner notes that TFL has apologised for the delay to the complainant.

The Decision

23. The Commissioner's decision is that TFL did not deal with the request for information in accordance with the Act. It breached section 10(1) because it failed to comply with section 1(1) within twenty working days.

Steps Required

24. The Commissioner requires no steps to be taken.

Right of Appeal

25. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

26. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 9th day of May 2011

Signed

**Faye Spencer
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

Time for Compliance

Section 10(1) provides that –

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt'.

Health and Safety

Section 38(1) provides that –

'Information is exempt information if its disclosure under this Act would, or would be likely to –

(a) endanger the physical or mental health of any individual, or

(b) endanger the safety of any individual.'