

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 8 September 2014

Public Authority: Transport for London
Address: Windsor House
42 – 50 Victoria Street
London, SW1H 0TL

Decision (including any steps ordered)

1. The complainant has requested information relating ramps at tram stops.
2. The Commissioner's decision is that Transport for London (TfL) does not hold the information requested and has complied with its obligations under the FOIA.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

Request and response

4. On 25 November 2013, the complainant wrote to TfL and requested information in the following terms:

"does TfL hold any information regarding the length of ramps for tram stops like in the images below?:

<http://www.directenquiries.com//images/trams/5003/800/o5003-0100301.jpg>

<http://www.directenquiries.com//images/trams/5003/800/o5003-0100280.jpg> "

5. TfL responded on 20 December 2013. It stated that it did not hold the information requested.
6. Following an internal review TfL wrote to the complainant on 12 June 2014 and maintained its original position.

Scope of the case

7. The complainant contacted the Commissioner on 12 June 2014 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of this case to be to determine if TfL has complied with its obligations under section 1 of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states 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."

10. In situations where there is a dispute between a public authority and a complainant about whether the requested information is held, the Commissioner applies the civil standard of the balance of probabilities.
11. The Commissioner must therefore decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches and other explanations offered as to why the information is not held.
12. TfL explained that it was not originally responsible for London Tramlink. It was privately built and operated from 1999 until 2008, when TfL took ownership of it.
13. When TfL took over the system it did inherit a large amount of records, much of which was in paper form. Since this time TfL has undertaken a lot of work to install a document management system for Tramlink records which would enable TfL to collate all the information in a logical and searchable format, which is something that was not true of the filing

structure employed by Tramlink's previous owners. Unfortunately this is still not fully completed and, a lot of information is still missing and many records are still held as paper copies only.

14. TfL further explained that London Tramlink is committed to improving the quality and quantity of the information that it holds regarding the Tramlink network, and this includes obtaining and collating information where gaps are identified and this may involve significant time and cost. However, so far the Engineering Team has targeted information that is critical to the operation and maintenance of the network. The length of the ramps specifically is not considered critical in this way, so no additional steps have yet been taken to survey and capture this data.
15. Given that TfL was not initially responsible for the construction, maintenance and operation of these ramps, TfL was unable to answer the Commissioner's questions regarding whether the information was ever held and in what form, when or whether it was destroyed and whether there were any records of its destruction. It was only able to refer to the records that were transferred when TfL took over responsibility for Tramlink and could not say what additional details may previously have existed.
16. TfL's response of 20 December 2013 confirmed that TfL does not hold this information and therefore would have to measure each ramp. Apart from a couple of stations that do not have ramps, all other tram network platforms do have them and with two platforms per station this would have required measuring the ramps serving at least 66 platforms.
17. TfL explained that the business area has confirmed that they searched the data that has been captured electronically, which would have been held centrally and not on individual devices, but this did not locate the requested information. Therefore, most of the efforts in establishing whether this information was held focused on the hard copy information. However, the documents held did not contain a record of the ramp length specifically, and this is what was communicated in the response
18. The complainant's request for internal review stated he was dissatisfied by the fact that the length and steepness of ramps at Tramlink stops (where necessary) have not been measured.
19. The complainant further commented that:

"The ramps have been there for over a decade and I feel that I have the right to know from the company who constructed those ramps in the first place why this information has not been recorded and/or given to TfL."

20. The internal review response did provide the complainant with examples of the details that TfL was able to locate regarding the station platforms, including examples of the schematic drawings, though these did not serve to answer the request as it was made.
21. The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:
 - public authorities are obliged to publish certain information about their activities; and
 - members of the public are entitled to request information from public authorities.
22. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.
23. In this case TfL has explained they were not responsible for the ramps when they were built. The company that built them was a private company and so would not have been subject to the FOIA.
24. There is no obligation on TfL to hold this information, particularly as it did not originally construct the ramps, and the construction company could not be said to hold it on TfL's behalf, even if it had retained this information.
25. Although TfL is responsible for the ramps, in the absence of any record specifically referring to the ramp lengths, the only way to provide it to the complainant would be to go out and measure the ramps. However, the FOIA only applies to information held (or held on its behalf) at the time of the request. A public authority is not obliged to create information in order to respond to a request.
26. However, although TfL does own the platforms with the ramps, it does not consider that this translates into holding the information regarding the length of the ramps. The only way to obtain this would be to measure them and would constitute creating new information. In the event that this was not the case, TfL considered that the time it would take to survey the platform lengths would be likely to exceed the cost limit
27. The Commissioner has taken into account the explanations provided by the TfL in stating that it does not hold and has never held the requested information. The Commissioner considers that on the balance of probabilities no information is held.
28. He is therefore satisfied that TfL has met its obligations under the FOIA and requires no further action to be taken.

Right of appeal

29. 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,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
Group Manager
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Wilmslow
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SK9 5AF