

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 October 2019

Public Authority: Transport for London (TfL)

Address: Petty France
Room 291
Floor 2, 55 Broadway
SW1H 0BD

Decision (including any steps ordered)

1. The complainant has requested information relating to the number of taxi driver licences revoked or suspended due to depression, anxiety or any other mental health condition. TfL refused to comply with the request under section 12 FOIA.
2. The Commissioner's decision is that TfL was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the request. The Commissioner also considers that TfL provided the complainant with appropriate advice and assistance in accordance with its obligations under section 16 FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 26 February 2019 the complainant made the following request for information under the FOIA for:

"How many Licenced Taxi Drivers have had their licences revoked or suspended due to depression, anxiety or any other mental health condition over the following years?: 2014 2015 2016 2017 2018."
5. On 21 March 2019 TfL responded. It refused to comply with the request under section 12 FOIA as it said that it would exceed the cost limit to do so.

6. The complainant requested an internal review on 21 March 2019. TfL sent the outcome of its internal review on 17 April 2019. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 5 June 2019 to complain about the way the request for information had been handled.
8. The Commissioner has considered whether TfL was correct to apply section 12 FOIA to the request in this case.

Reasons for decision

Section 12 – cost exceeds appropriate limit

9. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
10. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request - 24 hours work for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
 - (a) determine whether it holds the information
 - (b) locate the information, or a document which may contain the information
 - (c) retrieve the information, or a document which may contain the information, and
 - (d) extract the information from a document containing it.
11. The appropriate limit for TfL is £450 or the equivalent of 18 hours work.
12. TfL explained that the medical conditions of 'depression', 'anxiety' and/or 'any other mental health condition' which the complainant was specifically seeking data for fall within a guideline licencing category assigned by the DVLA which TfL follow (the DVLA group 2 medical

guidelines). TfL's Taxi and Private hire team conducted an initial search of their system and identified that 588 drivers had a record of having a licence revoked due to not meeting the DVLA group 2 medical guideline standard between 2014 and 2018. However these guidelines cover a variety of medical conditions not just the ones that the complainant was seeking and TfL does not centrally record a breakdown of each medical condition that has warranted a licence to be revoked. Therefore there is no way of collating this information other than reviewing the 588 driver files and collating information based on a review of their records.

13. TfL said that this was explained to the complainant in its response of 21 March 2019 and reiterated in an email from TfL's Customer Correspondence Manager on 16 May 2019.
14. It went on that to locate and extract the information in relation to the specific medical conditions that the complainant wanted would have required a manual search through each of the identified 588 driver records to determine the exact reason why the drivers licence had been revoked under the DVLA group 2 medical guidelines.
15. When responding to the request, TfL allowed a conservative estimate of an average of 3 minutes per file to review and determine the revocation reasons, making the total estimated time to locate and extract the required data 29.4 hours, clearly exceeding the 18 hours outlined in the Fees Regulations made under section 12 of the FOI Act. This was explained to the complainant in TfL's response of the 21 March 2019 in which it also advised that he may wish to consider narrowing the scope of his request, including the timeframe he was seeking, to allow TfL to assist within the 18 hour prescribed limit. TfL confirmed that the complainant submitted his internal review request the same day and chose not to reduce the scope of his request or the time period he required.
16. When conducting the internal review TfL requested that a sample exercise was taken of the 588 identified driver files to determine exactly how long it would take to fully review and extract the data being sought. This was undertaken by a Communications and Engagement Officer in TfL's Taxi and Private Hire team who sampled 10 separate driver files/records from the 588 identified as being within scope of the request. It was advised that the files in question contain a variety of emails, PDF documents, letters and completed forms all of which had been individually saved electronically or scanned onto the driver's records. Each file varied in the volume of documents held in it and each document in the files needed to be individually opened, reviewed in full and where appropriate, have the information extracted and collated accordingly. The outcome of this sample exercise was that a realistic average of 5 minutes would be required to fully review each of the 588

identified driver files, greater than the initial estimate DVLA had allowed in the original response and now equating to a total of 49 hours of staff time and resource.

17. TfL explained this to the complainant within its internal review response of 17 April 2019, outlining in full the task required to locate and extract the specific information he required and again advising that limiting the time frame to less than 5 years' worth of data would most likely aid a more positive result. The complainant again declined to narrow his request.
18. Based upon TfL's submissions, the Commissioner would agree that it would exceed the cost limit to comply with this request given there are 588 files that would need to be searched and the sampling exercise has confirmed that it would take approximately 5 minutes per file. Even TfL's originally more conservative estimate of 3 minutes per file would still exceed the cost limit in this case. Section 12 FOIA was therefore correctly engaged in this case.

Section 16 – Advice and Assistance

19. Under section 16 FOIA TfL is obliged to provide the complainant with advice and assistance to help enable the complainant to refine the request to fall within the cost limit or explain why this would not be possible.
20. In this case TfL asserted that the complainant was clearly advised on two separate occasions that narrowing the timeframe of this specific request would be likely to yield a more positive outcome. In addition, TfL said that it has also provided a significant amount of advice and assistance on how to make the best use of FOI, including ways in which the cost exemption can be avoided in future requests. TfL therefore considers that it met its duty under section 16 by providing both a full explanation of the estimated processing time per file (based on a sample exercise), and the number of individual files that were caught by the original request. This would allow the requester the opportunity to consider the specific number of files TfL would be able to search within the cost limit and submit a new request accordingly.
21. The Commissioner does consider this to be sufficient to comply with TfL's obligations under section 16 FOIA.

Right of appeal

22. 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@Justice.gov.uk

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

23. 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.
24. 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.....

Gemma Garvey

Senior Case Officer

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF