Neutral citation number: [2024] UKFTT 1064 (GRC)

First-tier Tribunal
(General Regulatory Chamber)
Information Rights

Appeal Numbers:

FT/EA/2024/0058 (1), FT/EA/2024/0090 (1),
FT/EA/2024/0053 (2), ET/EA/2024/0054 (3),
FT/EA/2024/0050 (4)

Decision given on: 28 November 2024

Heard at Field House
On 7 and 8 August 2024

Before

JUDGE OF THE FIRST-TIER TRIBUNAL SWANEY
TRIBUNAL MEMBER TATAM
TRIBUNAL MEMBER PEPPERELL

Between

IVAN MURRAY-SMITH (1)
AMIT AGARWAL (2)
ISAAC GLUCK (3)
DERERK DISHMAN (4)

Appellants

and

THE INFORMATION COMMISSIONER

First Respondent

TRANSPORT FOR LONDON

Second Respondent

Representation:

© CROWN COPYRIGHT 2024

For the Appellants:	Mr I Murray-Smith
For the First Respondent:	No appearance
For the Second Respondent:	Mr R Hogarth, of counsel

DECISION

1. The appeals are dismissed.

REASONS

Background

2. There are four separate appellants in these five linked appeals.

The respondent's decisions

3. There are five decisions challenged in these linked appeals by four appellants. For ease of reference, we refer to the decisions as follows:

   (i) Decision 1A (ref IC-263495-N0P0), which relates to the first appellant, Ivan Murray-Smith and appeal reference EA/2024/0058.

   (ii) Decision 1B (ref IC-277488-P1R5), which relates to the first appellant, Ivan-Murray Smith and appeal reference EA/2024/0090.

   (iii) Decision 2 (ref IC-274392-K9K7), which relates to the second appellant, Amit Agarwal and appeal reference EA/2024/0053.

   (iv) Decision 3 (ref IC-276728-P6J9), which relates to the third appellant, Isaac Gluck and appeal reference EA/2024/0054.

   (v) Decision 4 (IC-277083-T6S9), which relates to the fourth appellant, Derek Dishman and appeal reference EA/2024/0050.

Decision 1A

4. Between 23 August 2023 and 18 September 2023, the first appellant made five requests for information to the second respondent, Transport for London (TfL). He requested the make and model of CCTV, CCTV enforcement and parking enforcement cameras in different locations. His requests were made pursuant to the Freedom of Information Act 2000 (FOIA).

5. TfL decided following an internal review on 11 October 2023 that the correct regime governing the request was that set out in the Environmental Information Regulations 2004 (the EIR) rather than FOIA. TfL decided that the information requested in each request is exempt from disclosure under regulation 12(5)(a), 12(5)(b), and 12(5)(e) of the EIR.

Decision 1B

6. Between 28 September 2023 and 23 October 2023, the first appellant made 16 requests to TfL for the make and model of specific CCTV enforcement cameras in particular locations. The requests were made pursuant to FOIA.

7. Following an internal review, on 14 December 2023, TfL determined that the regime governing the requests was the EIR and not FOIA. It determined that the requests were properly refused under regulation 12(4)(b) because the requests were manifestly unreasonable. In addition, it determined that the requested information is exempt from disclosure under regulation 12(5)(a), (b) and (e) of the EIR.

8. The first appellant complained to the Commissioner in respect of each of TfL's decisions. In two notices, one dated 27 January 2024 (decision 1A) and the other dated 8 February 2024 (decision 1B), the Information Commissioner gave the following reasons for his two decisions:

   (i) The requested information is environmental information under regulation 2(1) of the EIR because:

      (a) one of the purposes of cameras is to enforce road user charging schemes such as the Congestion Charge and the Ultra Low Emission Zone (ULEZ); and

      (b) the cameras form part of a policy, programme or activity likely to affect emissions and the state of London's air and atmosphere.

   (ii) It is accepted that the requested information could be pieced together with other information in the public domain and used to compile information about ULEZ cameras.

   (iii) It is accepted that there is a real and significant risk that individuals could risk their own safety and that of others by vandalising and damaging ULEZ cameras.

   (iv) It is accepted that the safety of individuals involved in the ULEZ scheme is also at risk from anti-ULEZ activists if the location of cameras is known.

   (v) The requested information engages the exception under regulation 12(5)(a).

   (vi) It is accepted that disclosure of the requested information would benefit those intent on causing damage to ULEZ cameras and associated infrastructure, which would potentially encourage further vandalism, resulting in an increase in the resources the Metropolitan Police need to allocate and thereby take away resources from other areas of policing.

   (vii) Disclosing the requested information would adversely affect public safety and would adversely affect the course of justice.

   (viii) The requested information engages the exception under regulation 12(5)(b).

(ix) It is accepted that the requested information is of interest to the first appellant, but disclosure is to the wider world. It is not accepted that the general public interest outweighs the public interest in withholding the information to protect the public and those involved in the ULEZ scheme and in order not to impede the Metropolitan Police.

(x) The public interest lies in favour of withholding the information under regulation 12(5)(a) and (b).

(xi) Because of the conclusions in relation to 12(5)(a) and (b), it is not necessary to consider 12(5)(e).

(xii) TfL was entitled to refuse to comply with the 16 requests (decision 1B) under regulation 12(4)(b) because they were manifestly unreasonable.

Decision 2

9. On 29 October 2023 the second appellant made a request to TfL for the make and model of a specific parking enforcement camera in a particular location.

10. Following an internal review on 16 November 2023, TfL determined that the requested information is exempt from disclosure under regulation 12(5)(a), (b) and (e) of the EIR.

11. The second appellant complained to the Commissioner.

12. The Commissioner issued a decision notice on 27 January 2024. It is set out in the same terms as those described above and the reasons given are the same as those set out in paragraph 9 above.

Decision 3

13. On 27 October 2023 the third appellant made a request to TfL for information about the make and model of a specific parking enforcement camera in a particular location.

14. Following an internal review, on 4 December 2023 TfL decided that the requested information is exempt from disclosure under regulation 12(5)(a), (b) and (e) of the EIR.

15. The third appellant complained to the Commissioner.

16. The Commissioner issued a decision notice on 27 January 2024. It is set out in the same terms as those described above and the reasons given are the same as those set out in paragraph 9 above.

Decision 4

17. On 10 November 2023 the second appellant made a request to TfL for information about the make and model of a specific parking enforcement camera in a particular location.

18. Following an internal review, on 8 December 2023 TfL decided that the requested information is exempt from disclosure under regulation 12(5)(a), (b) and (e) of the EIR.

19. The fourth appellant complained to the Commissioner.

20. The Commissioner issued a decision notice on 27 January 2024. It is set out in the same terms as those described above and the reasons given are the same as those set out in paragraph 9 above.

The appellants' case

21. Each of the appellants lodged an appeal against the Commissioner's respective decisions.

The first appellant

22. The first appellant's grounds of appeal are as follows:

    (i) It is not correct that the EIR apply and the Commissioner's reliance on the decision in IC-262996-Q1D5 is misplaced, because the requested information in the present case is much narrower and does not relate to ULEZ or ULEZ cameras because the cameras in question are known to be parking enforcement cameras.

    (ii) While it is accepted that the presence and purpose of the cameras may be environmental information, that is not the information requested. It is not accepted that the make and model of a particular camera can properly be characterised as environmental information.

    (iii) Section 39 of FOIA does not provide an absolute exemption and it is therefore subject to the public interest test.

    (iv) All of the cameras identified are parking enforcement cameras and none of them is an Automatic Number Plate Recognition (ANPR) camera, which means that none of them can be a ULEZ camera because it is publicly known that ULEZ cameras are ANPR cameras.

    (v) A person issued with a penalty charge notice can identify the camera from which the notice was issued from by requesting the relevant footage from TfL (which is routinely provided on request) and by comparing that footage to Google Street View.

    (vi) TfL has therefore already put information in the public domain which confirms that the cameras in question are parking enforcement cameras and not ANPR/ULEZ cameras. No prejudice can therefore be caused by the release of the requested information, i.e. the make and model of the cameras.

    (vii) The Commissioner has accepted information provided by TfL without scrutiny.

    (viii) The Commissioner's reliance on TfL's evidence that 'approved device' certificates are provided in evidence in parking appeals is misplaced, because it does not provide any information about the specific device other than it has been approved. Without information about the make and model of a specific camera, it is not possible to determine whether it is in fact covered by the certificate provided in evidence.

    (ix) This is supported by examples of parking appeals being allowed because it was not possible to determine whether the camera used to issue the penalty charge notice was in fact covered by the approved device certificate. That these appeals

would not have been allowed without the information about the specific cameras demonstrates the public interest in disclosure and that if the requested information is *not* disclosed, that the course of justice may be adversely affected as a result.

(x) There is no prejudice in disclosing the requested information and the public interest in disclosure outweighs the public interest in withholding the requested information.

(xi) The 16 requests for information (decision 1B) are not manifestly unreasonable. The requests have nothing to do with a desire to obtain information about ULEZ cameras and the information is sought to support appeals against penalty charge notices and there is a serious purpose.

(xii) The argument that releasing the requested information would lead to yet further requests, exacerbating the cumulative burden is not well-founded. In fact, it is likely to reduce the number of requests because there is a finite number of cameras. There would be no undue burden on TfL if they simply released the information requested as and when requests are made.

(xiii) There is no improper motive behind the requests.

(xiv) Identical requests are unrelated and are likely to be from individuals who found the wording online.

23. The second, third and fourth appellants also lodged grounds of appeal in the same terms as those lodged by the first appellant save that the details of the specific cameras relevant to each of the requests were included.

24. In essence, the grounds of appeal from all four appellants can be summarised as follows:

(i) The Commissioner was wrong to conclude that the requested information is environmental information and was therefore wrong to apply the EIR (Issue 1).

(ii) The Commissioner was wrong to find that there would be prejudice caused by disclosure (Issue 2).

(iii) The Commissioner was wrong to conclude that the public interest in withholding the requested information outweighed the public interest in its disclosure (Issue 3).

(iv) The Commissioner was wrong to find that the requests considered in decision 1B (EA/2024/0090 (appeal 0090)) were manifestly unreasonable (Issue 4).

TfL's response to the appeals

25. TfL maintains that the decisions to withhold the requested information were correct. TfL provides background to the opposition to the ULEZ scheme and examples of the

some of the criminal damage caused to the camera network used to enforce the scheme. This campaign of criminal damage is stated to be the reason TfL does not generally publicise the location of ULEZ enforcement cameras because to do so would assist criminals in their campaign and would assist individuals to plan journeys with the purpose of avoiding ULEZ cameras. For the same reason, TfL explains that it does not publicise the location of *non*-ULEZ cameras. If it did, TfL considers that if it did disclose information about non-ULEZ cameras, but did not disclose information about ULEZ cameras, it would be possible to identify ULEZ cameras by inference. TfL asserts that where it refused to disclose information about a particular camera, it could be inferred that the camera is, or is very likely to be, a ULEZ camera.

26. TfL explains that because the make and model of ULEZ cameras is publicly known, disclosure of information about the make and model would clearly identify a camera as a ULEZ camera. Equally, if TfL were to disclose only the make and model of non-ULEZ cameras, the refusal to disclose the make and model of a specific camera would reveal that it was a ULEZ camera.

Issue 1

27. The requested information is environmental information and comes within the scope of the EIR. This is because traffic cameras are used for a range of traffic-related purposes, which amongst other things, reduce or are likely to reduce, emissions from traffic. Such measures are designed to protect the environment and, in particular, London's air. TfL contends that the cameras form part of measures affecting factors and elements in regulation 2(1)(a) and (b) of the EIR and measures designed to protect those elements.

28. The appellant's argument that it is not environmental information because the information itself does not affect the environment is to misunderstand the test for determining what is environmental information.

29. The appellant is wrong to rely on section 39 of FOIA. The Commissioner's guidance on section 39, which states that a public authority would not be expected to issue a response to a request for information under FOIA where the information falls to be dealt with under the EIR, is sensible. In TfL's submission it would be duplicative, pointless, and wasteful for public authorities to be obliged to provide responses under both regimes. TfL relies on the Commissioner's guidance that because public authorities are under an obligation to respond to requests for environmental information under the EIR and that it is hard to envisage circumstances where it would be in the public interest for a public authority to also consider the request under FOIA.

Issue 2

30. TfL asserts that three exceptions are engaged under regulation 12(5)(a), 12(5)(b) and 12(5)(g) and that prejudice is likely under all three. Regulation 12(5)(a) relates to public safety and national security; regulation 12(5)(b) relates to the course of justice; and regulation 12(5)(g) relates to protection of the environment. This is a change to the

position as set out in TfL's internal reviews where it was asserted that regulation 12(5)(e) applied.

31. Disclosure of the withheld information would tend to identify ULEZ cameras and render them vulnerable to attack, theft and vandalism. The co-location of ULEZ cameras with other infrastructure such as traffic lights means that that other infrastructure is also vulnerable to attack. The risks to that other infrastructure are risks to public safety and/or national security. TfL points to the Commissioner's guidance which states that if the disclosure of information endangers a piece of the United Kingdom's infrastructure, this could harm both public safety and national security.

32. TfL contends that disclosure would render individuals involved in the operation of the scheme vulnerable to threats, abuse, and harassment. In addition, those who would carry out acts of vandalism would be vulnerable to injury, for example because often the cameras are high up. Vandalism also poses a risk of injury to others, with TfL citing a publicly reported case whereby a ULEZ camera was blown up with an improvised explosive device. These are all further threats to public safety.

33. ULEZ camera-related crime consumes a significant amount of policing resources. Disclosing the requested information, which would tend to identify ULEZ cameras, would render them vulnerable to attack, theft and vandalism, would further stretch police resources and divert them from other policing priorities. Furthermore, by tending to identify cameras and thereby enabling individuals to evade ULEZ enforcement would hinder TfL in its own ULEZ enforcement functions.

34. The damage to ULEZ cameras, which would be enabled and facilitated by disclosure of the requested information, would hinder the protection of the environment and would hinder TfL from the exercise of its other functions for the protection of the environment, for example administering the LEZ and the congestion charge.

Issue 3

35. It is TfL's position that the public interest in withholding the requested information outweighs the public interest in disclosure. Pursuant to C-71/10 Ofcom v IC [2011] PTSR 1676, the public interest underlying all the exceptions which are engaged fall to be aggregated. TfL contends that the public interest in avoiding an undue burden on a public authority and reducing the likelihood of all of the potential prejudices identified occurring is weighty.

36. TfL acknowledges that each request must be considered on its own merits, taking into account any factors particular to each request. It contends however that there is nothing in any of these appeals which indicates any public interest in disclosure in relation to the specific requests.

Issue 4

37. Applying the guidance given by the Upper Tribunal in Dransfield v IC [2012] UKUT 440 (AAC), which was not challenged in the Court of Appeal (Dransfield v IC and

Department for Energy and Climate Change [2015] EWCA Civ 454), the requests are manifestly unreasonable.

The Commissioner's response to the appeals

38. The Commissioner maintains his position as set out in the decision notices that the withheld information engages regulation 12(5)(a) and (b) of the EIR and that the public interest in withholding the information outweighs that in disclosure.

Issue 1

39. The appellants misconstrue the scope of the EIR because when determining whether information is 'on' an environmental measure, the tribunal may look beyond the precise issue and take into account its context (Department for Business, Energy And Industrial Strategy v The Information Commissioner & Anor [2017] PTSR 1644; EWCA Civ 844 (Henney)).

40. The requests concern information about traffic enforcement cameras which allow TfL to ensure that it is maximising the ability of traffic to move along the TfL road network; and that it is enforcing its road user charging schemes. The purpose of these measures is to protect the environment and in particular London's air quality by minimising the time vehicles spend in transit and promoting the use of less polluting forms of transport.

41. It is irrelevant that the subject of the requests does not go to the cameras' immediate intended use. The requests are for information 'on' measures that have an environmental purpose, and the EIR regime applies.

42. The appellants are wrong to contend that the public interest test in section 39 of FOIA applies. Authorities are under an obligation to respond to requests for information under the EIR. As is set out in the Commissioner's guidance, it is hard to envisage a situation where it would be in the public interest for an authority to also consider the information under FOIA.

Issue 2

43. The Commissioner considers that there are two bases for prejudice to be caused by disclosure of the requested information:

    (i) A risk to public safety and national security (regulation 12(5)(a) of the EIR).

    (ii) Adverse effect on the course of justice (regulation 12(5)(b) of the EIR).

44. The Commissioner's guidance to regulation 12(5)(a) states that of the disclosure of information endangers a piece of the UK's infrastructure, this could harm both public safety and national security. There have been over 1,000 thefts and acts of vandalism, which have the potential to be significantly destructive. There is one example of counter-terrorism officers arresting individuals for using an improvised explosive device to disable one camera.

45. Disclosure of the requested information may contribute to a mosaic effect whereby multiple individual requests result in a verified map of each location where ULEZ cameras are situated.

46. Disclosure of the requested information would be useful to those wishing to map the locations of ULEZ cameras for the purpose of causing criminal damage and that contributing to public knowledge about the location of those cameras will risk facilitating further acts of vandalism. This will in turn lead to the Metropolitan Police having to devote extra resources to address such vandalism and draw resources away from other areas of law enforcement and public protection.

Issue 3

47. The Commissioner accepts that there is a presumption in favour of disclosure but maintains that the public interest in withholding the requested information outweighs the public interest in disclosure.

48. The Commissioner identifies the public interest in minimising the risk of criminal activity, maintaining public safety (including that of the individuals who install and maintain the cameras as well as those who would seek to damage them), and upholding the course of justice.

49. Balanced against those strong public interests, the Commissioner submits that the public interest identified by the appellant, i.e. that the requested information will demonstrate whether a particular penalty charge was validly issued, is weak. The Commissioner gives three reasons for that submission:

    (i) That knowing the make and model of a particular camera may invalidate a penalty notice is not borne out by law because the legislative scheme requires the *system*, including cameras and other components, rather than a particular camera to be subject to approval.

    (ii) Even if the appellant's argument is correct, this tribunal is not the appropriate forum for determining whether a correct camera was used in issuing a penalty notice. The appropriate forum is before an adjudicator pursuant to the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (England) Regulations 2022.

    (iii) The appellants fail to explain why disclosing this information would be in the *public* interest as distinct from the *private* interest they have in avoiding a penalty. The Commissioner relies on Woodford v Information Commissioner (EA/2009/98) for the submission that such private interests must be disregarded when carrying out the public interest balancing test.

Issue 4

50. The Commissioner did not address Issue 4 in his response to appeal 0090 but adopted the relevant decision notice in its entirety.

The law

51. Regulation 2(1) of the EIR defines 'environmental information'. Regulation 5(1) provides that subject to any exceptions, a public authority that holds environment information shall make it available on request.

52. Regulation 12 of the EIR contains exceptions and provides where relevant:

(1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—

(a) an exception to disclosure applies under paragraphs (4) or (5); and

(b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

(2) A public authority shall apply a presumption in favour of disclosure.

…

(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

…

(b) the request for information is manifestly unreasonable;

(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—

(a) international relations, defence, national security or public safety;

(b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;

…

(g) the protection of the environment to which the information relates.

53. Although the appellants contend that FOIA is relevant to this appeal, for the reasons given below, we find that it does not apply and so it is not set out here.

The appeal hearing

54. The appeals were listed for hearing over two days and consisted of OPEN and CLOSED evidence sessions and OPEN and CLOSED submissions sessions.

55. The first appellant represented himself and the other three appellants. The second respondent was represented by Mr Hogarth, and we are grateful to both.

The evidence

56. We had the benefit of an OPEN bundle and a CLOSED bundle of evidence, an authorities bundle, and additional authorities relied on by the appellants.

57. At the end of the OPEN evidence session the tribunal posed six questions to the second respondent, and we are grateful for the effort taken to answer those questions at short notice. As they were not ultimately material to our conclusions, we have not set out the questions or the answers given here.

58. The appellant did not call any witnesses. TfL called Ms Siwan Hayward OBE, who is Director of Security, Policing and Enforcement for TfL. She gave evidence in both the OPEN and CLOSED sessions. She sets out her role in her witness statement and explains that she was not personally involved in making the decisions under appeal. She states that she understands the security risks faced by TfL in relation to cameras and the likely impact of disclosures by TfL relating to cameras. We are satisfied that given her role and experience, she is an appropriate witness and that we can give her evidence significant weight. Ms Hayward's evidence in her witness statement addressed the following topics:

    (i) TfL's camera network.

    (ii) Camera-related targets and criminal damage.

    (iii) The impact of disclosure on crime.

    (iv) The effect of disclosure on public safety and national security.

    (v) The effect of disclosure on the course of justice.

    (vi) Further factual matters relevant to the public interest.

59. Ms Hayward adopted her statement subject to clarifying an error in referencing and labelling of some of the CLOSED exhibits. The correct details are set out at footnote two to Mr Hogarth's skeleton argument.

60. The first appellant cross-examined Ms Hayward and sought to understand how wanting to know the make and model of a camera which was known to be a parking camera could impact on ULEZ. Ms Hayward explained that over the course of the past year there had been a significant campaign against ULEZ, which began on social media. Ms Hayward described an increase in vandalism of cameras and an increase on attacks against the people involved in the installation and maintenance of cameras. Ms Hayward acknowledged that the requested information, i.e. the make and model of specified cameras, may have been released in the past, but because of the increase in attacks on cameras and people, a decision was made not to disclose the make or model of *any* camera in the London network because the information was fuelling highly motivated criminals in their criminal activity.

61. Ms Hayward explained that the decision was taken in the face of a rapidly changing situation. She also stated that she was aware the release of some information after that decision was taken but stated that those disclosures were made in error. Ms Hayward stated that broadly it became the position in the autumn of 2023 not to release the make or model and therefore the purpose of any camera that TfL owns, operates, or maintains because it was seen how that information was being used by criminals to map and identify cameras to target and to assist evasion of the ULEZ scheme.

62. The first appellant sought to understand the causal link between the make and model of a camera that is known to be an enforcement camera (and therefore known *not* to be a ULEZ camera) and criminal activity.

63. In response, Ms Hayward pointed to Julie's ULEZ Map, a map which is publicly available, and which shows the location of ULEZ cameras. Ms Hayward stated that the requested information, if released, could be used by motivated individuals to determine which cameras to target or exclude. She stated that it was a clear demonstration of the mosaic effect, whereby information released could be used to build up a map. Ms Hayward stated that multiple requests are received and that this justifies the decision to rely on the exceptions to disclosure.

64. The first appellant noted that where it is already known that a particular camera is a parking enforcement camera, also knowing the make and model of that camera would not add anything and asked how the information could assist in any criminal endeavour. Ms Hayward responded that while it may be assumed that a camera is for a particular purpose, it is TfL's confirmation which makes the difference. This is authoritative confirmation that a camera is or is not a ULEZ camera.

65. The first appellant referred to the ability of a person accused of a traffic violation being able to request the footage on which TfL relies. He asked whether by requesting that footage, a requester would have authoritative confirmation that the camera is a traffic enforcement camera. Ms Hayward acknowledged that they would, but that this is distinct from a situation where a person is seeking confirmation about the make and model and therefore purpose of a number of specific cameras and that information being in the public domain. Ms Hayward made a distinction between information released to the world at large under EIR or FOIA and a release of information to a particular individual who had committed a traffic violation. She acknowledged when asked, that she was not aware if those individuals were subject to any restriction requiring them not to disclose the information/footage to anyone else. She confirmed that it is possible that someone who has received the footage could post it online.

66. Ms Hayward accepted that if an individual put the footage online, it becomes publicly available knowledge that at the time of the offence, there was a traffic enforcement camera in a particular location. Ms Hayward stated that cameras could be used for multiple purposes.

67. The first appellant asked Ms Hayward a number of questions about the uses of particular cameras. She confirmed that at the time of preparing her witness statement,

CCTV cameras referred to in paragraph 12 of that statement, such cameras were not used for ULEZ enforcement. When asked whether a person accused of a traffic violation who requested and received information from TfL about the particular camera would have confirmation that the camera is not a ULEZ camera, Ms Hayward responded that they would have confirmation that the camera is a CCTV camera with the capability of recording contraventions as authorised. When pressed she stated that they would have confirmation that the camera is a traffic enforcement camera.

68. Ms Hayward pointed out that a person who asks for information about a camera used to record a parking violation and who is also opposed to ULEZ will know that it is a parking enforcement camera. Knowing the make and model of that camera adds to the information which is known to help determine targets and evade the scheme. Ms Hayward stated that given what is known about the ULEZ campaign, releasing the requested information, regardless of the recipient's intention, increases the risk of attacks across TfL's infrastructure.

69. The first appellant drew Ms Hayward's attention to information published on TfL's website about the make and model of specific cameras. He asked Ms Hayward given her concern about the risk such information poses, whether in her view it should be taken down. She confirmed that it should, although it may not be possible to remove it from the internet altogether because of the way in which internet pages can be cached.

70. The first appellant asked Ms Hayward whether there was any inconsistency between the decision to refuse the fourth appellant's request and the publication of some information on TfL's website. Ms Hayward reiterated that the position was one which was rapidly changing, where TfL was reviewing its position and making decision against a backdrop of increased violence. She stated that some information may have been published in error, including into December 2023 despite a decision having been taken by then that disclosure of information about any camera should be subject to an exception.

71. The first appellant asked Ms Hayward questions about the certification of cameras as part of the enforcement network and whether it was possible that cameras which had not been certified could be deployed. Ms Hayward stated that cameras used for enforcement relating to speeding and red lights are approved through a different process which is overseen by the Home Office. She stated that there is a trial of CCTV cameras at bus shelters which are used by police to detect crime on the bus network. Ms Hayward stated that within TfL there is a robust system for ensuring compliance with relevant regulations involving a number of departments with technical, legal and policy expertise. When asked whether mistakes might happen, Ms Hayward stated that before enforcement action can be taken, TfL must be confident that the action is right, proportionate, lawful and fair and that there is a high bar. She stated that there is a strong relationship between the technical and legal expertise to ensure that enforcement is lawful.

72. Ms Hayward stated when asked that she was not aware of a tribunal decision in 2022 in which it was held that all bus lane enforcement certificates were invalid. That concluded the OPEN evidence.

73. At the conclusion of the CLOSED evidence, Mr Hogarth prepared a gist of the CLOSED evidence which we approved, and which was provided to the first appellant. The gist was set out in the following terms:

    1. The CLOSED session consisted of CLOSED submissions by TfL's counsel, followed by some questions from the Tribunal.

    2. Counsel made submissions on three matters.

    3. First, by references to the Disputed Information, counsel compared the information that was available to criminals at the time of the refusals, to the information that would have been available to criminals had the Disputed Information been disclosed.

    4. Secondly, counsel made submissions about the differences between those two sets of information, expanding on the points made in OPEN about the nature of public domain information by reference to the Disputed Information.

    5. Thirdly, counsel made submissions about the assistance that the Disputed Information would provide to criminals in reaching conclusions about targets for attack.

    6. The Tribunal asked TfL's counsel to what extent the submission referred to in §5 above was dependent on the distinction between the EIR and FOIA. Counsel answered that it did not depend on this, and the submission held under the EIR or under FOIA.

    7. The Tribunal asked TfL's counsel a question about certain factors that might bear on the causal mechanisms of adverse effect on which TfL relies. TfL's counsel acknowledged the possibility of factors being relevant in principle, but submitted that they were an inevitable feature of the causal mechanisms under consideration and in any event would not significantly detract from the efficacy of those causal mechanisms on the facts of this case.

OPEN Submissions

74. The first appellant made oral submissions on behalf of all the appellants. Helpfully, he accepted that if TfL can show a causal link between the release of the requested information and the prejudice it alleges, then the public interest will fall in favour of withholding the requested information. The appellants therefore contend that the central issue is the prejudice test.

75. The appellants' position is that where there is already information in the public domain that firmly establishes that a camera is not a ULEZ camera, then having official confirmation of that fact from TfL adds nothing and the mosaic effect argued for by TfL carries no weight. The first appellant referred to the fourth appellant's request by way of example and submitted that there was already public information in the public domain at the time of the request and if there was any doubt, it has now been established that the cameras are traffic enforcement cameras and not ULEZ cameras.

76. The appellants contend that in adopting a blanket approach, TfL failed to consider each request on its merits. TfL has failed to consider whether, if a particular request were granted, a criminal would have access to any information that was not already known or accessible to them. The appellants submit that if they would not, then release of the requested information has no impact on the criminal's ability to target ULEZ infrastructure and there is accordingly no causal link between the release of information and the claimed harm.

77. The first appellant noted that he had made many more requests for information that have been answered than ones where an exemption has been relied upon. He did not identify the subject of those requests but stated that there had been no suggestion of vexatiousness or unreasonableness in any of those other requests. He submitted therefore that there can be no question that the volume of requests relevant to appeal 0090 was unreasonably burdensome.

78. Mr Hogarth began his submissions by addressing the factual issues in the appeals. He submitted that there were two core factual matters at the heart of TfL's response to the requests. The first is the campaign of violence against camera infrastructure and the second is the impact of disclosure on that campaign. He noted that it was not all contested, but as the appeals are full merits appeals, the tribunal would have to reach its own view.

79. Mr Hogarth highlighted the extent of the campaign, the nature of the targets and the fact that it was not limited merely to infrastructure but extended to employees. Mr Hogarth also highlighted how systematic those collecting and collating information had been, and the significant efforts made to disseminate the information, including for example, Julie's Map. He referred us to page 747 of the OPEN bundle, which refers to the use of freedom of information requests to obtain information to help map the location of cameras.

80. Regarding information that is in the public domain, Mr Hogarth maintained that confirmation from TfL is valuable because if it is suspected that a camera is a ULEZ camera, knowing the make and model will definitively confirm that one way or the other. The consequence is that it can either be targeted or ruled out. He submitted that if TfL were to disclose the make and model of some cameras and not others, that would enable inferences to be drawn about which are ULEZ cameras. Mr Hogarth submitted that this effect, i.e. the mosaic effect, allows inferences to be drawn from patterns. The refusal to disclose any information is therefore not an impermissible approach which fails to consider the merits of each individual request.

81. Mr Hogarth referred us to Maurizi v Information Commissioner and the Crown Prosecution Service (EA/2017/0041), which related to a request for information held by the Crown Prosecution Service (CPS) about the extradition request relating to Julian Assange, the founder of Wikileaks. The relevance of the case was that a similar blanket approach is used in relation to requests for information about extradition requests. The approach is to neither confirm nor deny that a request has been made until an arrest has been made. The First-tier Tribunal accepted that releasing the information in advance of an arrest would confirm that an extradition request had been made and found that this would undermine the public purpose of the power to bring extradition proceedings. It considered that unless the same answer is given in every case, an inference could be drawn from a refusal to disclose information in a particular case. Although this is a case about a neither confirm nor deny response, Mr Hogarth submitted that the reasoning is the same and that we must consider what inferences can be drawn from patterns as well as considering individual requests on their merits. Mr Hogarth also relied on the case for what is said about the operation of a policy. The tribunal in Maurizi accepted that it may be shown in an individual case that there is good reason for departing from a blanket policy, but that does not mean that having a policy is wrong, or that the policy and the reasons for it cannot be taken into account.

82. In relation to the Commissioner's guidance, Mr Hogarth accepted that it was not binding on the tribunal but submitted that we should have regard to it and consider for ourselves whether we find it persuasive and accordingly what weight we should attach to it.

83. In respect of each of the three main issues, Mr Hogarth submitted as follows:

Issue 1

84. Is the information environmental information? It is and the appellant's analysis is flawed. Nowhere in the definition does it require that it is the *information* that must have an effect on the environment. Mr Hogarth relied on Department for Business, Energy and Industrial Strategy v Information Commissioner and anor [2007] EWCA Civ 844 for what it says about the interpretation of regulation 2(1)(c) of the EIR, specifically whether information is 'on measures affecting or likely to affect' factors in regulation 2(1)(a) and (b). He submitted that the requested information is on measures and that there was no error in the decision notices.

85. The appellant is wrong to assert that FOIA applies and even if it did, the outcome would be the same. Mr Hogarth submitted that the two schemes are complementary and not overlapping, relying on obiter in paragraph 3 of the judgment of the Court of Appeal in Dransfield.

Issue 2

86. Mr Hogarth made submissions as to why each of the exceptions relied on applies, addressing the appellant's submission that no prejudice arises. He submitted that regulation 12(1)(a), (b) and (g) apply in all five decisions and that regulation 12(4)(b) applies in respect of decision 1B (see above) only. He relied on the five specific adverse

effects on public safety and/or national security identified by TfL, i.e. damage to cameras; damage to other infrastructure, e.g. traffic lights; risk to the safety of those who work in the ULEZ scheme; risk to the safety of the criminals themselves; and the risk to the wider public and those investigating incidents such as the use of an IED in one attack. Mr Hogarth acknowledged that this particular attack post dated the decisions and is not strictly relevant, but he contended that it throws light on the situation at the time of the refusals, which is the relevant time.

87. In respect of the course of justice exception Mr Hogarth submitted that the criminal activity surrounding the ULEZ scheme has diverted police resources to an unsustainable degree and that disclosure would have the effect of fuelling criminal activity that would adversely impact on the ability to bring individuals to justice.

88. Mr Hogarth acknowledged that the Information Commissioner did not support the engagement of regulation 12(1)(g) but also that the outcome of the appeals was unlikely to turn on this point. He maintained however that the exception applies.

89. In respect of the appellant's argument that no prejudice arises because there is already information in the public domain which allows an individual to ascertain the make and model of a particular camera, Mr Hogarth submitted that it is flawed. He noted that publicly available does not necessarily mean in the public domain and submitted that for it to be in the public domain would require it to be available in practice and not to require specialised knowledge in order to find it. Mr Hogarth relied on paragraph 32 of AG v Greater Manchester Newspapers Ltd [2001] EWHC QB 451 for his submission. In that case, the court concluded that the newspaper was in breach of an injunction not to publish certain information because its reporting had added something material to what was publicly available, but not already in the public domain. Mr Hogarth submitted that the process which must be undertaken to cross-reference and piece together the publicly available information on which the appellant relies means that that information should not be regarded as being in the public domain. In contrast, disclosure of the requested information is disclosure to the world at large.

90. Mr Hogarth submitted that information available from other sources is not likely to have the same reliability or credibility as information from TfL disclosed under either the EIR or FOIA. He relied on Commissioner of the Police of the Metropolis v Information Commissioner and Rosenbaum [2021] UKUT 5 (AAC). In that case, the requester submitted to the Upper Tribunal that a neither confirm nor deny response was not appropriate where some of the information was already in the public domain. The Upper Tribunal disagreed, finding that official confirmation adds something, even if it adds to something already in the public domain. Mr Hogarth submitted that the same is true in the present appeals.

91. In relation to past disclosures made in response to similar requests, Mr Hogarth submitted that this does not mean that TfL has an obligation to disclose requested information in response to future requests.

Issue 3

92. Mr Hogarth noted that the parties are now agreed that if prejudice can be shown, then the public interest in withholding the requested information outweighs that in disclosure. Given our conclusions, we do not set out his submissions on this issue in any more detail.

Issue 4

93. Mr Hogarth submitted that the law on vexatiousness applies in relation to manifestly unreasonable, relying on paragraph 78 of the Court of Appeal's judgment in Dransfield. Mr Hogarth relied on decisions of the Upper Tribunal in CP v The Information Commissioner [2016] UKUT 0427 (AAC) and Williams v The Information Commissioner (UA/2021/001701 – GIA) for submissions in respect of the relevance of past requests, the purpose of requests and where the same question was asked in the knowledge that the same reason would be given, which had already been adequately explained.

94. Mr Hogarth submitted that the volume of requests over a four week period represented an unreasonable diversion of resources. In respect of the volume of requests, Mr Hogarth referred us to Annex 1 at page 265 of the OPEN bundle. He submitted that the cumulative effect of the requests was significant.

95. In relation to the public interest test, to which regulation 12(4)(b) is subject, Mr Hogarth relied on his submissions in relation to Issue 3.

Findings and reasons

96. We find at the outset that the OPEN and CLOSED evidence of Ms Hayward is credible, and we attach significant weight to it. We base this finding in part on the CLOSED evidence to which we cannot refer in this OPEN decision. We are satisfied as to her experience and ability to comment on the issues in the appeal.

Issue 1 – the applicable regime

97. As to the question of whether the requested information is environmental information, we are satisfied that it is. We are also satisfied that the applicable regime governing the requests is the EIR and not FOIA. We find that TfL was not required to have regard to section 39 of FOIA in addition to the EIR.

98. We reject the appellants' argument that the requested information is not environmental information because the information itself does not affect the environment. There is no requirement that it must do so. The information must be on *measures* affecting or likely to affect environmental elements or factors.

99. We accept the evidence of Ms Hayward about the purposes of traffic cameras and their role in protecting London's air by reducing the amount of time people spend driving, reducing the amount of time vehicles spend stationary by keeping traffic moving, or promoting less polluting modes of transport. We find that the cameras are part of

measures which are designed to reduce emissions from traffic and to protect the environment, in particular, London's air. They are therefore part of measures 'on' those factors and elements in (a) and (b) of the definition of 'environmental information' in regulation 2(1) of the EIR. We find accordingly that the EIR is the correct regime.

100. The appellant argues that TfL was nevertheless required to consider the requests under FOIA pursuant to section 39 of that Act. Both respondents dispute that, and TfL argues that, even if they were, the outcome would be the same, as the public interest in withholding the requested information would outweigh the public interest in disclosure. TfL relies on the Commissioner's guidance on section 39 of FOIA. We accept that the guidance is not binding on us, but it is something to which we can and do give weight.

101. Section 39 provides an exemption under FOIA for any environmental information held by a public authority which is subject to the EIR. It can be seen therefore that the purpose of the exemption is to allow authorities which are subject to the EIR to handle requests for environmental information under the EIR without also having to consider whether the information should be disclosed under FOIA.

102. The appellant argues that section 39 is subject to a public interest test and that this opens the door to a public authority having to consider the request under FOIA notwithstanding the EIR apply. The Commissioner's guidance states that if a public authority is dealing with a request under the EIR, he will not expect the public authority to also issue a decision under section 39 of FOIA. It goes on to state that although section 39 is subject to a public interest test, it is difficult to foresee any circumstances where it would not be in the public interest to deal with a request for environmental information under the EIR. We agree and we find that the appellant has failed to give any reasons as to why the public interest is not met by dealing with the request under the EIR. These appeals do not involve requests for a mix of environmental and non-environmental information.

103. We find that TfL is not required to consider the requests under FOIA.

Issue 2 – which exceptions are engaged and can TfL show prejudice?

104. We find that the exceptions contained in regulation 12(5)(a) and regulation 12(5)(b) apply to all the requests in these appeals. Because of this finding, we have not gone on to consider the exception in regulation 12(5)(g) because it is not necessary to do so.

105. We find that disclosure of the requested information would or would be likely to adversely affect public safety and/or national security and that it would or would be likely to adversely affect the course of justice. We find that TfL has demonstrated that the prejudice alleged would, or would be likely to occur were the requested information to be disclosed.

106. We find on the basis of the OPEN evidence before us, some of which is in the public domain, that damage to cameras and more importantly damage to other infrastructure

with which they are co-located, such as traffic lights, and threats to the safety of those who work in the ULEZ scheme have all occurred. We also find on the basis of the OPEN evidence that there is a potential risk to the safety of the criminals themselves; and potential risks to the wider public and those investigating incidents such as the use of an IED in one attack are all things which have in fact occurred. Mr Hogarth acknowledged that this particular attack post dated the decisions and is not strictly relevant, but he contended that it throws light on the situation at the time of the refusals, which is the relevant time. We accept that this is the case.

107. In our view it is self-evident how the prejudice identified is capable of harming public safety. However, by way of illustration, we are satisfied that traffic lights, on which traffic enforcement cameras are often mounted, are part of the United Kingdom's infrastructure. Traffic lights are essential to ensuring road safety and we find that damage to them creates a real risk of harm to public safety.

108. The OPEN evidence shows that there are a large number of investigations into criminal acts against ULEZ cameras and staff involved in operating and maintaining the scheme. This means police resources are being used to investigate these matters and once charges are brought, resources within the criminal justice system are being used to prosecute individuals. Increased confidence in the ability to identify which cameras are ULEZ cameras and which are not gives rise to a real likelihood of an increase in violence against ULEZ cameras. This in turn will increase the policing and criminal justice resources required to address it. We accept also that it will have a negative impact on TfL's ability to enforce the ULEZ regime. We find that the course of justice would be adversely affected by disclosure of the requested information.

109. Our findings are supported and strengthened by the CLOSED evidence, to which we cannot refer in this OPEN decision.

110. The appellants argue that there is no causal link between disclosure of the requested information and the prejudice alleged. They contend that it is already possible to make inferences about the purpose of cameras from information available in the public domain. They argue therefore that disclosure of the requested information would add nothing. The evidence before us shows that there is information about traffic enforcement cameras which is publicly available. It was argued that this does not necessarily mean that it is in the public domain relying on AG v Greater Manchester Newspapers Ltd [2001] EWHC QB 451. In the public domain means that information is so generally accessible that, in all the circumstances, it cannot be regarded as confidential.

111. Whether information is so generally accessible that it is not confidential is a matter of fact and degree. In Greater Manchester Newspapers information was available in the public domain in two ways: in public libraries and on the internet. Dame Butler-Sloss P agreed that information available in public libraries was accessible to the public but considered that the information itself was detailed and complicated and not easy to digest by someone not accustomed to its format or with sufficient background to know where to look. In relation to information placed on the website of a government

department, Dame Butler-Sloss considered that it would require a degree of background knowledge and persistence for it to become available to a member of the public and would not be widely recognised as available. Her conclusion was that the accessibility of the information was theoretical and not generally accessible to the pubic, therefore the information was not public knowledge and accordingly was not in the public domain.

112. In the present appeals the appellants rely on information from a variety of sources being in the public domain. There is information about the make and model of ULEZ cameras and the footage obtained by recipients of penalty charge notices together with location information. These can then be compared with online maps such as Google Maps using its street view function which provides an interactive panorama of the chosen location. Mr Hogarth submitted that the work required to piece together the information means that it should not properly be regarded as being in the public domain. We agree because the information is not readily accessible to someone without a degree of knowledge about where to find the source information or the steps needed to piece it together or interpret it.

Issue 3 – where does the public interest lie?

113. The first appellant accepted that if we found that the exceptions applied and we found that there was a link between the prejudice alleged and the requested information, then the public interest would in favour of withholding the information would outweigh that in disclosure. There is therefore no need for us to address this issue in any detail.

114. The public interest in disclosure is that identified by the Commissioner in his response to the appeals.

115. TfL relies on the mosaic effect for its contention that disclosure of the requested information would enable interested or motivated individuals to draw conclusions about which cameras are and which are not ULEZ cameras.

116. We are satisfied that this is the case. We do not accept the appellants' position that it is already possible to draw conclusions about cameras from information in the public domain without significant effort by someone with knowledge of where to find the information and how to interpret it. Mr Hogarth submitted that the inferences that can be drawn from such information which is obtained by piecing it together are limited and of limited value. On the other hand, official confirmation of those inferences which would be obtained from disclosure of the requested information would be of significant value. We find that this is the case.

117. The effect of the disclosure of the requested information would be to increase the confidence of a potential hostile actor in the information as a whole and the inferences they may draw from that information. The consequence of this is that their confidence in their ability to carry out successful attacks against ULEZ cameras is increased, rightly or wrongly, and it is this increased level of confidence that gives rise to the real risk of the adverse effect on public safety and/or the course of justice. It is apparent

from the CLOSED evidence that TfL's concerns about the risk(s) arising from disclosure of the withheld information relate not only to the attacks on cameras, but to the people who operate and maintain the ULEZ system. We accept that this is the case.

118. The appellants placed weight on the public interest in ensuring that penalty charge notices are properly issued, and that relevant evidence is available in appeals against penalty charge notices. We find that this is in the private interests of the appellants and those people who are represented by the first appellant. We do not accept that there is any wider public interest in the disclosure of the requested information for this purpose. The appeal process in question has procedures for disclosure of relevant information and it is incumbent on anyone appealing a penalty charge notice to use those procedures. It is not an answer to say that they are not effective. The proper way of challenging a lack of effectiveness is within the appeal proceedings relating to the penalty charge notice.

119. We have carefully balanced the public interest in disclosure and the public interest in maintaining the exception. The public interest in disclosure carries weight and we bear in mind that the views of the public authority are not a trump card. We have found that the risks identified by TfL are well-founded and therefore they carry significant weight. Our finding that the disclosure of the requested information gives rise to a real risk that potential hostile actors will in fact carry out attacks on cameras, infrastructure or people, carries significant weight. For these reasons, we are satisfied that public interest in the disclosure of the requested information is outweighed by the public interest in maintaining the exemption.

Issue 4 – was the request which is the subject of appeal EA/2024/0090 manifestly unreasonable?

120. We note that given our conclusions above, it is not strictly necessary for us to determine this issue. Our conclusions on issues 1 to 3 above apply to all the requests, including those in appeal 0090. Our conclusions here apply only to requests in appeal 0090.

121. We are satisfied that the requests made prior to 11 October 2023 were not manifestly unreasonable. We find that the requests made after that date were manifestly unreasonable. Given our findings above in relation to other exceptions, TfL is not required to take any action in relation to the requests in appeal 0090 which predate 11 October 2023.

122. In considering this issue, we have had regard to the established caselaw on both vexatiousness and manifest unreasonableness, as the two tests are essentially the same. References to vexatiousness should therefore be reads as references to manifest unreasonableness. In Dransfield v IC and Devon CC [2015] EWCA Civ 454, [2015] 1 WLR 5316 the Court of Appeal held that a comprehensive or exhaustive definition of vexatious is not appropriate. It held that the emphasis should be on an objective standard and, consistent with the constitutional nature of the right in question, public authorities face a high hurdle in establishing that a request is vexatious. The decision maker is required to consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.

123. Other principles that can be identified from the caselaw include:

(i) The public interest in disclosure does not necessarily trump other factors.

(ii) A request that would impose a substantial burden on the public authority may be considered vexatious, even if it has some value to the public.

(iii) The hurdle for finding a request is vexatious solely on the burden on the public authority is high.

(iv) Previous requests may be taken into account when deciding whether a request is vexatious even if the request would not be vexatious when viewed in isolation. There must be a detailed evidential foundation addressing previous dealings between the requester and the public authority.

(v) The possible availability of the information through disclosure in other proceedings is irrelevant to the question of the seriousness of the purpose for which the information is sought.

(vi) Circumstances after the date of decision are not relevant in determining whether the request is vexatious, save that they may be taken into account when deciding what steps, if any, the public authority must take. If a request has subsequently become vexatious, the tribunal can determine that the public authority does not have to take any further steps.

(vii) When taking account of the extent of work required to produce the necessary information, the time and cost of redacting any documents can be taken into account (unlike section 12 of FOIA).

124. Mr Hogarth submitted that the volume of requests, 16 in a four week period, was manifestly unreasonable because of the resources that would be required to respond to them. We asked Mr Hogarth to point us to any evidence which identifies the actual time taken to respond to such requests and the resources it requires. He confirmed that no such evidence had been provided. We therefore reject that argument on the basis that there was insufficient evidence before us to demonstrate that the level of resources required to respond to these requests made them manifestly unreasonable.

125. The crux of the argument in relation to the burden of the requests is that in light of earlier refusals in relation to similar requests, the first appellant ought to have known that his requests would more likely than not be refused. We find that this is the case. The significance of the date 11 October 2023 is that this is the date on which TfL completed its internal review and it is the date on which the first appellant made a compliant to the Commissioner. As at that date therefore the first appellant was aware of TfL's position, but rather than allow the Commissioner to determine the complaint, he continued to make similar requests. Mr Hogarth submitted that TfL's internal review was a full and thoroughly reasoned document. We are satisfied that the internal review sets out in some detail clear reasons why the requested information was withheld. The reasons were given in general terms rather than solely in relation to the

specific cameras to which the requests related and we are satisfied that it ought to have been evident that similar requests would meet a similar response. In light of this, we find that instead of making yet further requests, the first appellant ought to have awaited the outcome of his complaint to the Commissioner.

126. Each request must be considered on its own merits. We accept Ms Hayward's evidence that the position was a rapidly changing one which meant that TfL considered requests against a backdrop of increasing violence. We do not accept that prior disclosure was an indication that the appellants could expect disclosure in future requests after 11 October 2023 by which time TfL had made its position clear. We note that there was disclosure in December 2023, but we accept Ms Hayward's evidence that this was made in error and not in line with TfL's position at the time. We accept that notwithstanding each request must be considered on its own merits, it was reasonable for TfL to take a position in light of the background to the requests. That does not mean that TfL could not or would not have departed from their position in an appropriate case.

127. The first appellant argues that his requests had a serious purpose, which was to obtain evidence which would assist in appeals against penalty notices. We find that the purpose for seeking disclosure was not one which can be regarded as serious. While it is of some importance to him and to the people he assists in such appeals, we do not consider that there is any wider public interest (as indicated above).

128. Having considered all the relevant circumstances, we find that the three requests made after 11 October 2023 were manifestly unreasonable. Given our findings on regulations 12(5)(a) and (b) which also apply to those three requests, no action is required of TfL.

Conclusions

129. In summary, we find as follows:

(i) The requested information is environmental information.

(ii) The applicable regime for dealing with the requests is set out in the EIR.

(iii) TfL is not required to consider the requests under FOIA.

(iv) The exceptions in regulation 12(5)(a) and (b) apply in respect of all the requests.

(v) The exception in regulation 12(4)(b) applies in respect of three requests made after 11 October 2023, however no action is required by the public authority.

(vi) The public interest in withholding the information outweighs the public interest in disclosure in respect of all of the requests.

130. It follows therefore that the appeals are all dismissed.

Signed: *J K Swaney* Date: 25 October 2024

Judge J K Swaney
Judge of the First-tier Tribunal