

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 August 2017

Public Authority: Transport for London
Address: 50 Victoria Street
Floor 7, Windsor House
London SW1H 0TL

Decision (including any steps ordered)

1. The complainant has requested information concerning support given to London taxi drivers and trainee taxi drivers from black and minority ethnic (BAME) backgrounds. Transport for London (TfL) released some information and says that it holds no further information that falls within the scope of the complainant's requests that is not already published.
2. The Commissioner's decision is that TfL has released to the complainant all the information it holds that is relevant to his requests and, on the balance of probabilities, holds no further information.
3. The Commissioner does not require TfL to take any steps to ensure compliance with the legislation.

Request and response

4. On 23 June 2016, the complainant wrote to TfL and requested information in the following terms:

"[1] This request relates mainly to London suburban taxi drivers, and to work carried out by Transport for London, on its own or in partnership with others.

ILLEGAL POSITIVE DISCRIMINATION / ILLEGAL POSITIVE ACTION

Ethnic Fast-tracking

[1] Suburban taxi drivers saw a wave of new drivers who were totally dependent on satnavs. Their customers started offering postcodes instead of road names, and started offering unsolicited turn-by-turn navigation for simple local journeys. A near exclusive BAME badge number block suggests that this didn't arise by chance. Could you tell me

(a) approximately how many suburban BAME knowledge candidates were fast-tracked, fast-forwarded, or otherwise subject to lowered standards? And

(b) the approximate date when ethnic fast-tracking into suburban licencing areas ceased.

Although, Transport for London has previously denied it, there is strong evidence that the PCO approved fast-tracking. Including evidence from Kennedy Scott: -

<http://www.kennedyscott.co.uk/kennedy-Sc...>

<http://www.kennedyscott.co.uk/view-detai...>

[2] Could you tell me approximately how many all-London BAME knowledge candidates were fast-tracked, fast-forwarded, or otherwise subject to lowered standards?

Ethnic Knowledge Schools

[3] Could you give me a list of any ethnic knowledge schools (ie schools that are linked to particular faith or minority community groups) - that Transport for London had a role in establishing, or is otherwise aware of through its routine business. [4] I would also be grateful for any relevant stored information on these knowledge schools. [5] And an indication of whether any are still in existence, when local London government funding ceased, and whether any are still being state-funded. [6] I would also be grateful for any information on the details of the assistance given, and whether there was any withdrawal of items from these schools after the diversity target was hit.

Transport for London has failed to mention (in response to previous requests) the following

<https://www.hitpages.com/doc/58427610350...> partnership - or any Olympics related targets.

[7] I would therefore be grateful if you could provide the following information: -

(i) whether there is still any BAME taxi knowledge scheme operating in Brent, and , if not, when it closed.

(ii) what, if any, Olympics related diversity targets existed (for taxi drivers),

(iii) was there any fast-tracking or fast-forwarding associated with any such target, and

(iv) can your provide any stored information relating to the Brent initiative in which Transport for London was a partner.

[8] I would also be grateful for any stored communications between TfL and the Department of Work and Pensions (including the National Employment Panel which is associated with the DWP) relating to Knowledge Training."

5. TfL responded on 21 July 2016. Its position was that it did not hold information within the scope of requests [7.4] and [8]. It told the complainant it was not aware of any 'ethnic knowledge schools' that he had referred to in requests [3], [4], [5] and [6]. It provided the answer 'None' to requests [1] and [2] and requests [7.1] to [7.3].
6. Following an internal review TfL wrote to the complainant on 20 January 2017. It clarified that that its response was based on information supplied to it by the Taxi and Private Hire department (TPH) and that it had passed to that team the complainant's concerns regarding the accuracy of the information it had provided.
7. TfL said that, during the review process, it had located a small amount of information concerning funding given to South London Green Badge Taxi School in 2004/5. It provided the complainant with a link to where this information is published on its website in its Annual Report for 2004/5.
8. TfL confirmed that it does not hold information with regard to the remainder of the complainant's requests. It invited the complainant to request specific documents or to describe the type of information he is looking for and it would advise if this can be located.

Scope of the case

9. The complainant contacted the Commissioner on 22 November 2016 to complain about the way his request for information had been handled. Following provision of TfL's internal review, the complainant remains of the view that TfL holds further information within the scope of his requests that it has not released.
10. The Commissioner's investigation has focussed on whether TfL has complied with section 1(1) of the FOIA and released to the complainant all the relevant information that it holds.

Reasons for decision

11. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled (a) to be told whether the information is held and (b) to have the information communicated to him or her if it is held.
12. The complainant is of the view that TfL illegally carried out highly disproportionate 'positive action' to recruit BAME London taxi drivers and that it has been making efforts to conceal this. The complainant has directed the Commissioner to a range of published documents, reports and other information that he considers supports his position that TfL holds further information within the scope of his requests.
13. These are, first, an article from the Daily Mail from 2008 that mentions the 'Green Badge Taxi School' as being a project in Clapham that was set up 'purporting' to offer courses in the "knowledge" for would-be taxi drivers from ethnic minorities.
14. The complainant has also provided links to Kennedy Scott's website in which it is stated that it is "the only training provider of its kind (outside of the traditional knowledge schools) delivering Black Taxi Fast Track Knowledge." Kennedy Scott is an organisation that delivers welfare to work and employment training programmes.
15. The complainant has provided the Commissioner with a Specification document for the project to deliver 'Knowledge of London Training for BAME and Women Drivers' that had previously been released to him. He has highlighted a table in the Specification that he says shows seven faith/community groups as "being involved in supported training projects". He considers this contradicts TfL's response, although it is not clear which of the responses specifically.

16. The complainant has also highlighted paragraph 6.4 of what appears to be an untitled LDA report¹ that indicates that TfL was a delivery partner in work undertaken by Kennedy Scott to increase the diversity of the bus and taxi driver workforce, which started in 2007.
17. The complainant has finally provided the Commissioner with a Mayor's Answer from 2008 that he says indicates that TfL was involved in the selection of Kennedy Scott for that work. Having reviewed the Answer, the Commissioner cannot see that it mentions TfL specifically as having been involved though has noted the reference to the Public Carriage Office as one of the bid assessors. Neither is it completely clear to which of the complainant's requests the LDA report and Mayor's Answer are applicable. Nonetheless, the Commissioner raised these points, and the others, with TfL.
18. By way of background, in its submission to the Commissioner TfL says that in 2007 the former Mayor of London – Boris Johnson – launched a campaign to improve the diversity of London's taxi trade. This included a publicity campaign and a programme of assisting and supporting women and members of black and minority ethnic communities while they learnt the Knowledge of London. The support programme ('the project') was sponsored by the LDA and delivered by Kennedy Scott. The project ended in 2010. TfL says that all applicants supported by the project undertook the full 'Knowledge' examination process and were examined by TfL to the same standard as all other applicants.
19. In the submission TfL has confirmed that it has undertaken a number of searches to establish exactly what relevant information it holds and has described those searches, as follows:
20. **The initial search:** The initial request, internal review and the questions from the Commissioner were all referred to TPH. When preparing the response to the initial request TfL's FOI team asked what searches had been undertaken and was told:

"Regarding the Brent Initiative, although we worked with Kennedy Scott, the scheme was managed by the LDA.

¹ <https://www.london.gov.uk/moderngov/Data/Economic%20Development,%20Culture,%20Sport%20and%20Tourism%20Committee/20080206/Agenda/8%20Appendix%201%20PDF.pdf>

In terms of searches conducted, I asked our Policy Manager ... and one of the Knowledge Examiners on behalf of the Knowledge team to see if any information in relation to this was held as they are the ones like to hold anything . I've not conducted any wider searches."

21. The FOI team considered the search adequate as the Policy Manager is a longstanding employee of TPH who has helped the team to answer similar requests previously made by the complainant.
22. **The internal review:** TfL says that during the course of the internal review, the complainant supplied further material to TfL consisting of screenshots from Kennedy Scott's website referred to above; the Daily Mail article; and a reference from a 2007 Taxi trade paper to a visit to the Kennedy Scott scheme.
23. Regarding Kennedy Scott's website, TfL has told the Commissioner that it does not consider that this website supports the complainant's allegations. It says requests [1] and [2] of the complainant's requests are specifically about lowered standards for applicants from ethnic minority groups. TfL does not consider the premise behind these requests is supported by these screenshots.
24. In TfL's view, the statement on its website that Kennedy Scott was unique outside of the "traditional knowledge schools" would suggest that it did not consider itself a Knowledge school, although TfL acknowledges that may be a moot point as it gave support, tuition etc to eligible candidates learning the Knowledge. However, TfL considers that Kennedy Scott was not an "ethnic knowledge school (ie schools that are linked to particular faith or minority community groups)" as defined by requests [3], [4], [5] and [6] of the complainant's requests.
25. TfL has next discussed the Daily Mail article that makes a reference to the Green Badge Taxi School. It says that as a result of this article it located a single reference to funding being given to South London Green Badge Taxi School in 2004/5. This was contained in a line in the TfL Annual Report 2004/5 and it had provided the complainant with the relevant web link.
26. TfL has told the Commissioner that it is advised that such payments would have been made under section 159 of the Greater London Authority Act. The retention period for annual reports is set out in section 161 of that legislation as being six years. Given the time that had elapsed since the payment was made and the retention period for emails of seven years, TfL says no email search was made on this term.
27. However, TfL goes on to say that a Google search shows that the listed premises for Green Badge Taxi School are now a Russian Ballet School.

And the only results for "London Green Badge Taxi School" since 2010 are a single local business directory entry, an obituary for its founder and the complainant's FOI request.

28. Next TfL has acknowledged the 2007 taxi trade paper reference to a visit to the Kennedy Scott scheme. TfL says the article describes the aims of the scheme as running in partnership with the Public Carriage Office with aims of increasing the number and diversity of London cab drivers in time for the 2012 Olympics. The article refers to Fair Cities Brent, which was part of a DWP pilot from 2004 –08
http://webarchive.nationalarchives.gov.uk/20130314010347/http://research.dwp.gov.uk/asd/asd5/report_abstracts/rr_abstracts/rra_495.asp
29. Finally, TfL has referred to the draft LDA Specification document that is discussed at paragraph 15 of this notice. TfL says that it disclosed this draft document to the complainant following searches that were carried out after the Information Tribunal decision EA/2015/0152. The document was written before March 2007 and the figures are estimates for future planned work. In TfL's view it does not appear to have direct relevance to any of the complainant's requests of 23 June 2016.
30. **Searches following the complaint to the Commissioner:** TfL has told the Commissioner that TPH conducted searches of the email records of current TfL employees involved in the project; personal drives of existing TfL employees involved in the project; the TPH driver and operator policy shared drive; and the paper filing system of the TPH driver and operator policy team. The TPH department said that it had not found any information falling within scope of the requests, and that electronic format was the most likely to contain such information. The search terms used were: LDA; London Development Agency; Kennedy Scott; Brent; DWP; Work and Pensions.
31. Following completion of these searches by TPH, the FOI team undertook a further electronic search of the TfL email archive. The search terms "DWP" and "Kennedy Scott" were used and the search was focused on the three TPH employees in Standards and Regulation who had been identified as most likely to hold information when searches were carried out in response to the Tribunal decision EA/2015/0152. TfL considers that the email search on these two keywords would be the most likely to locate relevant information. "Brent" was not searched for as it is a commonly referenced London Borough and its inclusion in request [7.4] appears to relate to the 'Fair Cities' project.
32. TfL says that the terms "LDA" and "London Development Agency" do not appear particularly relevant to these specific requests (beyond its engagement of Kennedy Scott) and "Work and Pensions" was considered adequately covered by DWP.

33. TfL reviewed 45 search results containing "Kennedy Scott" and 280 search results containing "DWP". It has confirmed that no information falling within the scope of the requests was located.
34. The vast majority of Kennedy Scott references were as a result of emails generated over 30 months by the complainant's complaint to the Local Government Ombudsman, various FOI requests, complaints to the Commissioner and the Information Tribunal decision. In one 2009 email, Kennedy Scott was listed as a potential partner for an "Additional Skills" programme that was being considered at that time to complement the Knowledge.
35. The 280 DWP results came primarily from privacy notices, information sharing arrangements (including the National Fraud Initiative), the TPH complaints policy and the recently completed review of taxi regulations.
36. TfL has considered whether it is likely that information has been destroyed. It says it is not known what recorded information was previously held that was in scope of the complainant's requests. Therefore it is unable to state whether this information was deleted/destroyed, or when this was done. However, TfL has noted that the Kennedy Scott work was carried out between 2007 and 2009 and so considers it is unlikely to be held on its email server, which has a seven year retention period.
37. TfL's standard corporate retention period of seven years would apply to other electronic formats containing information of this type. As this was a LDA/Kennedy Scott led project, any documents previously held by TfL would be likely to be copies of those owned by the LDA / Kennedy Scott. TfL considers that it seems likely that they would fall outside formal retention guidance and it is not aware of any statutory requirements to retain this information.
38. TfL is of the view that the majority of the information requested by the complainant is unlikely to have been held by TfL. TfL says it is the body responsible for licensing taxi drivers and is the examination body for the Knowledge of London examination system, which is City and Guilds accredited. Therefore there has to be separation between TfL and the various Knowledge Schools and training providers.
39. Requests [1] and [2] both allege that drivers have been subject to lowered standards. TfL does not accept that there has been any lowering of the Knowledge of London examination system for minority ethnic groups. The progress of all Knowledge applicants is determined solely by the scores they attain throughout the examination process. Therefore its response to the complainant stated:

"All applicants underwent the full Knowledge examination process and were examined by TfL to the same standard."

40. TfL has confirmed that its answer to requests [3] to [7.1] - that TfL is not aware of any "ethnic knowledge" schools – is consistent with the results of the searches that it has carried out and with the evidence the complainant has submitted.
41. TfL has referred to the LDA document (paragraph 16) and Mayor's Answer that the complainant has provided to the Commissioner. TfL says that while the document states that TfL was a delivery partner of the LDA and commissioned work to increase the diversity of the bus and taxi driver workforce, this does not mean that TfL was involved in lowering standards for the Knowledge or establishing "ethnic knowledge schools".
42. The only document that TfL located relating to funding for the Green Badge London School was provided to the complainant following the internal review. According to the previously referenced obituary, the Green Badge London School was founded in the 1980s to train unemployed young people.
43. TfL confirmed that the Answer to the Mayor's Question in 2008 states that the contract to deliver the project to encourage and assist under-represented groups to become licensed London taxi drivers was between the LDA and Kennedy Scott. The Answer also states that TfL assisted in the assessment of bids for the contract. TfL repeats this with the inference that the Mayor's Answer does not, in itself, support the complainant's view that TfL was involved in lowering standards for the Knowledge for BAME individuals.
44. **Additional information located:** TfL has told the Commissioner that as a result of its further searches, some additional information that is relevant to the requests has been located.
45. Questions 7.2 and 7.3 were answered with a statement that no Olympics related diversity targets existed (for taxi drivers). However, it has located a reference to a 2012 diversity target in a draft driver diversity strategy from March 2006. It had previously disclosed this to the complainant following his appeal to the Information Tribunal. References to this target in documents from 2007 were found on TfL's website. However, no references to this target were located after 2007 and the target refers to 2012 rather than explicitly linking it to the Olympics.

46. TfL asked TPH if it could provide any further information and it has said:

"To my knowledge, the objective was not to increase numbers specifically in time for the Olympics. Having said that I don't know why 2012 was the target date."

47. TfL has also referred to the fact that former Mayor Johnson referred to closure of the BAME and Women Taxi Driver project in May 2010 (two years before the Olympics), stating:

"The BAME and Women Taxi Driver project started in 2007 and was due to run for three years until October 2010. It actually completed delivery on the 31st March 2010 with a lifetime expenditure of £1,970,000. The project provided training and support (including childcare) to participants through the accreditation process of the 'Knowledge'. The project aimed to provide training to 640 people so that 400 Londoners would obtain the Knowledge/Green Badge by 2010.

Due to poor project design, very few participants were able to complete the Knowledge over the project lifetime and the LDA took the decision to terminate the project early. However, the support provided by the project, has enabled several hundred BAME and women participants to start their training who now have the option of continuing their journey towards obtaining the "Knowledge".

48. TfL has confirmed that TPH did not find any information held in relation to the "Brent initiative" which, as previously mentioned, it considers seems likely to refer to the DWP Fair Cities pilot from 2004-2008.
49. A search of the TfL website (earlier searches had been of email records, relevant drives and paper files) did locate various published papers that briefly mention the Fair Cities pilot: a Board paper from October 2007; a 2007 business plan document and a 2008 version of the same document; a 2008-2011 Race Equality Scheme and minutes from a Corporate and Equalities Advisory Panel from 18 May 2007.

The Commissioner's conclusion

50. Central to the complainant's requests [1] and [2] is the premise that TfL 'fast-tracked' BAME candidates through the Knowledge and that these candidates were not expected to attain the same high standards as other candidates. TfL has disputed this premise and maintains its position that it does not hold information within the scope of these requests, because no BAME candidates were 'fast tracked'.
51. The Commissioner has reviewed the supporting material that the complainant has provided. She notes that it evidences that TfL was connected with particular organisations and public initiatives that sought

to increase the diversity of London taxi drivers. However, she does not consider any of it is evidence that TfL fast-tracked BME candidates or that these candidates were subject to lower standards.

52. Consequently she is satisfied that TfL does not hold information falling within the scope of these two requests.
53. The complainant's requests [3], [4], [5] and [6] concern 'Ethnic Knowledge Schools'. The complainant's premise here seems to be that there may be Knowledge schools whose intake is or was only from particular faith or minority community groups.
54. TfL's position is that it is not aware of any 'ethnic Knowledge schools' and that this is consistent with the results of the searches it has carried out. Its searches at internal review had only indicated a small amount of information dating back to 2004/2005 concerning funding being given to the South London Green Badge Taxi School and it had directed the complainant to this information on its website. It is not clear to the Commissioner, however, that the South London Green Badge Taxi School – which appears to no longer exist – was what could be described as an 'ethnic Knowledge school' and so fall within the scope of the complainant's requests.
55. Again, the Commissioner has reviewed the supporting material that the complainant has provided – including that published on Kennedy Scott's website – and is not persuaded that this material evidences the existence of 'ethnic Knowledge schools' about which TfL must hold information.
56. The Commissioner notes the searches TfL has undertaken using the search term 'Kennedy Scott' and notes that these did not retrieve any information falling within the scope of the complainant's requests.
57. TfL has told the Commissioner that the project to deliver 'Knowledge of London Training for BAME and Women Drivers' in which Kennedy Scott was involved was a project sponsored by the LDA and that these two organisations are those most likely to hold information about that programme. TfL has noted that the work was carried out between 2007 and 2009 and so related information may have been destroyed in line with normal retention guidelines. Furthermore, in the Commissioner's view, having carried out this work does not, in any case, make Kennedy Scott an 'ethnic Knowledge school'.
58. The table in the draft Specification document for the project that the complainant highlighted does not appear to the Commissioner to be evidence that seven faith/community groups "were involved in supported training projects". She agrees with TfL's description of the

table as being of estimated outputs that it was expected the project would deliver in the future, with the expected output of seven faith/community groups fully engaged in the Project by 2009/2010. It is not known what the exact realised outputs were although the Commissioner notes the former London Mayor's statement at paragraph 47. And again, faith/community groups engaged in a project is not the same as 'ethnic Knowledge schools'.

59. The Commissioner is satisfied that TfL has carried out adequate searches within the scope of these four requests and holds no information other than the reference to Green Badge Taxi School to which it has already directed the complainant. She is prepared to accept that no further information is held regarding funding given to this School in 2004/5. This is because, given the length of time that had elapsed at the time of the request, any information would have been deleted in line with TfL's retention schedule of six years.
60. Requests [7.1] to [7.4] concern Olympics-related diversity targets and a BAME Knowledge scheme in Brent/a Brent initiative.
61. Regarding Olympics-related targets, during the Commissioner's investigation, TfL had located a 2012 diversity target in a draft driver diversity strategy from March 2006 which it had already provided the complainant. TfL has noted that the target refers to 2012 rather than the Olympics specifically and, other than references to this target in documents published on its website from 2007 (with no references to the target found after 2007), has confirmed it has located no other information within the scope of requests [7.2] and [7.3]. The Commissioner is satisfied that TfL has carried out adequate searches for information related to these two requests and holds no other information.
62. Regarding the requests concerning Brent, TfL has understood the complainant to be referring to a DWP 'Fair Cities' pilot that operated in Brent between 2004 and 2008.
63. As discussed, TfL has confirmed that a search of its website had identified various published papers that mention the Brent initiative. These would appear to fall very broadly within the scope of requests [7.1] and [7.4]. Since these documents, and those at paragraph 61, are already reasonably accessible to the complainant on TfL's website, under section 21 of the FOIA TfL is not obliged to provide them to him. TfL had confirmed that TPH has not found any further information concerning this initiative and the Commissioner is prepared to accept this.

64. Request [8] was for communications between DWP and TfL relating to Knowledge training. The Commissioner has noted the search of email records that TfL has carried out using the search terms 'Department for Work and Pensions' and 'DWP' and is prepared to accept that no information within the scope of request [8] was identified.
65. Finally, the Commissioner has noted paragraph 29 of EA/2015/00152. The Information Tribunal (IT) states that the complainant believed that a TfL advertising campaign called 'Put Yourself in the Driving Seat' was not the only action that would fall within the scope of 'positive action' as defined within the request in that particular case. The IT said that the Commissioner had explored this during her investigation and that TfL had confirmed that the only additional initiative was that run by the LDA and which is discussed in this notice. The IT accepted this on the balance of probabilities.
66. The Commissioner has considered all the circumstances of this case and carefully reviewed all submissions provided by both parties. She is not persuaded that the material the complainant has provided to her is evidence that TfL must hold more information within the scope of his requests than it has released to him. The Commissioner considers that TfL has undertaken adequate searches for information falling within the scope of the eight requests. She is therefore prepared to accept that it holds no information other than that discussed in this notice, and has met its obligations under section 1(1) of the FOIA.

Right of appeal

67. 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

68. 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.
69. 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
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