

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 October 2018

Public Authority: Transport for London
Address: 55 Broadway
London
SW1H 0BD

Decision (including any steps ordered)

1. The complainant has requested the minutes of the Crossrail 2 Programme Board. Transport for London (TfL) failed to respond to this request for information and the Commissioner's decision is that in doing so TfL breached section 10(1) of the FOIA. The Commissioner requires the public authority to provide the complainant with a response to this request which fully complies with its obligations in accordance with FOIA.
2. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

3. On 17 May 2018, the complainant requested the following information:
'Please may I have copies of the minutes of the meetings of the Crossrail 2 Programme Board.'
4. TfL acknowledged the request on 21 May and allocated a reference number. On 7 June TfL asked the complainant to specify which months were required and he asked for the minutes of the last 5 meetings.
5. On 5 July TfL informed the complainant that it was considering the exemption section 36 - prejudice to the conduct of public affairs.

Scope of the case

6. The complainant contacted the Commissioner on 21 August 2018 to complain about the failure of TfL to respond to this request.
7. In line with her usual practice, the Commissioner contacted TfL on 29 August 2018 to highlight the outstanding response. She instructed TfL to respond to the request within 10 working days.
8. TfL explained to the Commissioner on 30 August that the request was extended in accordance with section 10(3) of FOIA. It was still considering section 36 and the balance of the public interest.
9. On 19 September the Commissioner contacted TfL again as the complainant had not received a response. On 20 September TfL stated that it was still considering the public interest in relation to section 36.
10. On 15 October the Commissioner contacted TfL again. TfL explained that there were many interested parties to consult about the Board minutes in relation to section 36 and regular updates had been sent to the complainant.
11. The Commissioner considers that the scope of her investigation is to determine whether TfL has complied with Section 10 of the FOIA.

Reasons for decision

12. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
13. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
14. The Commissioner acknowledges that TfL has made a reference to section 10(3) to extend the deadline to respond to the complainant as it is considering the exemption under section 36 and the public interest. The Commissioner notes that there is a provision under section 17(3) to also extend the deadline to consider the public interest before providing a refusal letter to the complainant.
15. The Commissioner recognises that where there are exceptional circumstances the deadline can be reasonably extended beyond 40 working days to consider the public interest. However, in this case it is nearly 4 months since TfL stated in July that it is considering the

exemption under section 36. The Commissioner considers that this is an unreasonable delay. TfL should now provide the complainant with a full response without any further delay.

16. In this case TfL has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

17. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

18. 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.
19. 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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