

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 November 2013

Public Authority: Transport for London ("TfL")
Windsor House

Address: 42-50 Victoria Street
London
SE1H 0TL

Decision (including any steps ordered)

1. The complainant made a request to TfL to confirm the total breakdown figure spent on legal fees on proceedings between a named individual and TfL.
 2. TfL responded stating that it is not required to provide the complainant with the requested information as it considers the request to be vexatious in accordance with section 14(1) of the FOIA. However, during the course of the Commissioner's investigation TfL did provide the complainant with information that fell under the request. Subsequently the complainant argued that TfL had not provided him with all the information that it holds.
 3. The Commissioner's decision is that TfL has disclosed all the information that it holds that would fall under the request. However, he has also decided that TfL breached section 10(1) of the FOIA in that it failed to respond to the request within 20 working days of receipt of the clarification of the request.
 4. The Commissioner does not require TfL to take any steps.
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Request and response

5. On 30 October 2012, the complainant wrote to TfL and requested information in the following terms:

“(1) Please confirm the total figure, including tax, from 2008 to date, that Transport for London (TfL) has spent on legal fees on proceedings between [a named individual] and TfL.

(2) Please also provide a breakdown of the total figure showing the expenditure for each year, including tax, between the years 2008 through to 2012, for example:

2008 = £

2009 = £

2010 = £

2011 = £

2012 = £”

6. TfL responded stating that it is not required to provide the complainant with the requested information as it considers the request to be vexatious in accordance with section 14(1) of the FOIA.
7. TfL explained that it had applied this exemption due to the nature of the request. It considered that the request for information was linked to previous similar requests sent by other parties which were also refused under section 14(1) of the FOIA.
8. On 21 February 2013, following an internal review TfL upheld its decision to apply section 14(1) to the request. It explained that the request is vexatious and it believed the complainant had acted with another individual.
9. TfL had added that it had received more than one request for the same information. TfL also stated that it suspected that there was a connection between the complainant and another individual, as the complainant had requested the same information two weeks after TfL issued the internal review response to the previous request.

Scope of the case

10. The complainant contacted the Commissioner on 3 July 2013 to complain about the way his request for information had been handled, particularly about TfL's decision not to release the requested information.
11. During the investigation TfL agreed to release the requested information to the complainant. It advised the Commissioner that TfL had released information (on the spending on the legal cases in question) to another requester a month ago and that the information is in the public domain.
12. TfL added that it would withdraw its decision of applying section 14(1) of the FOIA to this case and that TfL would release the requested information to the complainant once it received a "*year by year breakdown of the total costs*".
13. The requested information was provided to the complainant on 30 September 2013 by TfL. The Commissioner advised the complainant to confirm whether he was satisfied with the response from TfL and informed him that the case would be closed if a response was not received.
14. The complainant was dissatisfied with the response and he requested to progress this case to a formal resolution. He stated that he believed TfL had refused to provide a figure for legal expenditure for 2009 in the terms of his original request.
15. Therefore the scope of this case is to consider whether TfL handled the complainant's request in accordance with the FOIA.
16. As TfL is no longer relying upon section 14, the Commissioner will not consider TfL's application of section 14 of the FOIA to the original request. However, he will consider whether TfL has disclosed all the information that it holds that would fall under the request. The Commissioner will consider the late provision of information by TfL.

Reasons for decision

Section 1

17. Section 1(1)(b) provides that a public authority in receipt of a request must communicate the information described to the applicant.

18. TfL initially informed the Commissioner that the fixed fee information for 2009 was not held. However, after a further search within its finance department TfL provided clarification of the legal fees figure.
19. TfL explained how the fees for the period in question related to the first claim brought against TfL by the named individual, which the external legal advisers began work on in August 2008. It added that it was initially to be handled on a fixed fee basis, with a first billing on opening the file. TfL explained that this figure was included in the information which had been released to the complainant.
20. TfL continued to explain how it was agreed in October 2009 that TfL would instead be charged based on an hourly rate and the external legal advisers then issued a bill in December 2009 to cover work undertaken from January 2009. TfL confirmed that this was paid by TfL in 2010 and was therefore included in the total figure paid in 2010 which TfL had submitted to the complainant.
21. The complainant considers that further information is held as initially TfL alleged that there was no information held for 2009 but have since clarified that figures for 2009 formed part of figures for 2010. He also stated that TfL did not clarify whether the whole of January 2009 and December 2009 is included and that there was no value for VAT.
22. The complainant believes that TfL has this information but has failed to release the information in the terms of his original request. He does not accept that TfL did not provide separate figures for 2009 and 2010 in the format he had requested, including the identification of VAT paid for each year. The complainant expected a separate breakdown of legal expenditure for 2009 and 2010 as TfL had provided for the other years in question.
23. TfL has explained that the complainant's request was for the total fees paid by TfL in each of the years covered by his request and it was satisfied that the information released to the complainant was consistent with the terms of his request. TfL was content to also provide the above clarification to the complainant which it considered should have been treated as a new request.

The Commissioner's view

24. In view of the above, the Commissioner is satisfied that TfL have released all the requested information to the complainant. In order to resolve this issue TfL also provided clarification of the expenditure fee of 2009 which had not been requested.

Section 10(1)

25. Section 10(1) of the FOIA states that:

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt'.

26. The complainant's request was submitted to the ICO on 30 October 2012 and after a further investigation, the requested information was provided by TfL to the complainant on 30 September 2013.

Conclusion

27. The Commissioner has found that TfL failed to comply with section 1(1)(b) within the statutory time for compliance, therefore it breached section 10(1) of the FOIA in its handling of this request.

Right of appeal

28. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

29. 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.
30. 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

Racheal Cragg
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