

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 July 2015

Public Authority: Transport for London (TfL)
Address: Windsor House
42-50 Victoria Street
London
SW1H 0TL

Decision (including any steps ordered)

1. The complainant has requested information about the C10 bus service. TfL refused to comply with the request under section 14(1) of the Freedom of Information Act 2000 (FOIA) as it considered it to be vexatious.
2. The Commissioner's decision is that TfL has correctly applied section 14(1) FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 8 January 2015 the complainant requested information of the following description:

"Please, as im sure you have investigated, could you provide me with the actual hours the information booth was staffed during nov/dec?

Or, as with the C10 bus, have you responded without evening checking the figures?

Also, in the call you listened to from Zara, she said "why do you bother calling if you wont give your address"

I felt that i HAD to provided my address , which i do not! Email was enough of a proof of identity. This was made clear in my complaint. Why

have you ignored it completely?

Please also provide me with contact details for your direct manager."

5. On 25 February 2015 TfL responded. It refused to comply with the request as it said it was vexatious under section 14 FOIA.
6. The complainant requested an internal review on 16 March 2015 as he was dissatisfied with TfL's application of section 14(1) FOIA to his request. TfL sent the outcome of its internal review on 7 April 2015. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 5 May 2015 to complain about the way his request for information had been handled.
8. TfL has clarified that the part of the request for contact details of a member of staff's direct manager was dealt with as an 'ordinary course of business' request and was not therefore considered under FOIA. It is the remaining part of the request to which section 14(1) FOIA was applied.
9. The Commissioner has considered whether or not TfL was correct to apply section 14(1) FOIA in response to this request.

Reasons for decision

10. Section 14(1) FOIA provides that a public authority is not obliged to comply with a request if it is vexatious.
11. The Commissioner's guidance¹ on the application of section 14(1) FOIA refers to an Upper Tribunal decision² which establishes the concepts of

¹http://www.ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

² *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC) (28 January 2013)

'proportionality' and 'justification' as central to any consideration of whether a request is vexatious.

12. The guidance suggests that the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.
13. TfL explained that the complainant has a long history of contacting it about the performance of the C10 Bus leaving Canada Water Bus Station. It said that he has made several FOI requests about these issues, it summarised the FOIA requests made in the following table:

Request	Date	Outcome
FOI-0758-1213: I want to know- How many complaints have been made in 2012 about delays in the C10 bus service?	03/08/2012	Information Provided
FOI-0759-1213: I would like COPIES of all complaints made about the C10 service in 2012 relating to delays in service. I would also like to see the responses given by TfL , and the date those responses were received by complainants (where "no response required" was logged, please provide me with findings of any investigations.	06/08/2012	Information Provided
FOI-1643-1213: Can you provide me with the "actual" staffed hours of the bus information booth at Canada Water bus station from 1st october2012 to Jan 1st 2013. Please note that i am after the "Actual" staffed hours, not the published hours (6.30-21.30.) .	03/01/2013	Refused Cost Limit
IRV-136-1213: Appeal against cost limit	29/01/2013	Appeal partially upheld and information provided after Mr Hughes clarified his request
FOI-2362-1314: I am requesting the actual departures of the no. 12 bus towards Oxford st On February 6th 2014 between 7am-8am. Please also include bus plate number and bonnet or running numbers displayed in the front window.	28/02/2014	Information Provided

FOI-301-1415: Please will you provide me with the actual departure times for the C10 service from the Hilton Docklands stop towards Canada water for the period including 12th may - 25th may please include the bonnet numbers of buses.	27/05/2014	S14(1) refusal.
FOI-0386-1415: Please will you provide me with the Bus departures of the C10 service from the elephant & castle stop towards Canada water between 22.00april 29th 2014-02.00 april 30th 2014.	11/06/2014	S14(1) refusal
IRV-037-1415: Appeal against S14(1)	23/06/2014	S14(1) upheld. Mr Hughes advised that we would not answer further requests about the C10

14. From the table above, it is clear that since 2012 the complainant has made 6 requests to TfL relating to the C10 bus service. TfL initially did respond to the requests and provided the complainant with the information requested. TfL has provided some additional background information to provide some further context to the FOIA requests set out above.
15. TfL explained that the complainant has made repeated complaints about the C10 bus at Canada Water bus station, through TfL Customer Services and to London Travel Watch. It said that it considers that this provides sufficient evidence to substantiate the view that the request of 08 January 2015 forms part of a persistent and unreasonable pattern of behaviour focusing on the C10 bus and Canada Water Bus Station and that a reasonable observer would consider it to be obsessive, particularly given the fact that the complainant has not actually been seeking to travel on this bus in most situations where he raises a complaint.
16. It said that when considering the complainant's previous internal review in 2014 (IRV-037-1415) it found that his extensive contact with TfL Customer Services included raising over 100 issues with them over the previous year. It explained that the complainant has been on a Case Handling Plan with a single point of contact since May 2014. It said that its Customer Services are no longer taking any action regarding any issues that he raises regarding the C10 bus service but the complainant has sought to evade this by attempting to raise anonymous complaints.

17. TfL went on to explain that the complainant attempted to raise his complaints regarding the C10 bus service with London Travel Watch (the statutory body which hears passenger complaints about London's public transport services) but that this service declined to consider his complaints on the basis that in most cases he has not actually been a passenger on the C10, and TfL considers that this supports the view that his complaints and FOIA request must be considered unreasonable.
18. TfL explained that Canada Water bus station has an information booth, which is the subject of the request at the centre of this complaint. It said that the complainant has previously requested and received information about the hours that it is manned. It confirmed that the complainant raises repeated complaints about the C10 bus at Canada Water bus station and his behaviour there has caused serious concern to bus station employees. TfL has collected statements from staff at the bus station about the complainant's behaviour and quotes from these statements have been included in the Confidential Annex attached to this Notice.

Serious purpose or value in answering the request?

19. TfL argued that when an almost identical request, requesting actual staffed hours of the information booth at Canada Water bus station (FOI-1643-1213) was answered after an internal review in 2013 (IRV-136-1213), the complainant immediately sent a reply stating that the information was not worth waiting for and claimed that the copies of log books provided were for the most part illegible. TfL said that it advised the complainant that staff on duty were not engaged solely in providing an information booth service and some of the people booking in may have been contractors carrying out other duties at Canada Water, rather than staffing the information booth. It explained to the complainant that providing the information contained in the signing in book would serve no meaningful purpose. It considers that this further request for the same information was made in order to draw attention to the issue which is the subject of the long running complaints rather than to make use of any information supplied under the FOIA.
20. TfL recognises that there is purpose and value in disclosing how long people have to wait for the bus, the mileage operated by bus services and how performance compares against its stated standards. Therefore it publishes this information on its website and has told the complainant that it does this:

<https://tfl.gov.uk/cdn/static/cms/documents/uploads/forms/boroughreports/routes/performance-route-C10.pdf>

21. The Commissioner acknowledges the points raised by TfL but would highlight that the information requested relating to staffing of the information booth does span a different time period to that requested previously. The Commissioner does not therefore consider that there is no serious purpose or value to the request.

Unreasonable persistence and request has the effect of harassing staff

22. TfL explained that the complainant has made repeated complaints and staff have reiterated the same information and explanations to him. It said that the complainant has been placed on a case handling plan and has been informed that TfL will not take any further action regarding his complaints about the C10 or Canada Water bus station staffing hours. The case handling plan directs that all calls and correspondence must be passed to a single point of contact and it considers that the complaints to the staff at the bus station, his repeated calls to Customer Services and his FOIA requests are an attempt to circumvent the case handling plan. TfL said that on one occasion the complainant called Customer Services to make an anonymous complaint. When his voice was recognised, the operator greeted him by name, at which point the complainant hung up, before calling back to lodge another complaint about being addressed by name in his previous anonymous call.
23. TfL went on that despite being asked to direct his calls to a single named contact, the complainant is still calling Customer Services about the C10 bus service and the information booth at Canada Water bus station.
24. It said that the experience of TfL employees dealing with the complainant has been that providing an answer to an information request is likely to lead to further requests, which in some instances have escalated into harassing behaviour.
25. The Commissioner considers that it is clear the complainant's issues relating to the C10 bus service have been running for at least the previous 3 years (TfL has provided evidence of a FOIA request being made in August 2012). The complainant has raised issues with this bus service through making complaints to TfL and through the making of FOIA requests. TfL has also explained that London Travel Watch, an independent party, has declined to take up the complaints and issues he has raised. Due to the long period of time the requests and complaints have been raised over, the amount of correspondence and telephone calls in addition to the FOIA requests and the fact that an independent body has refused to pursue the issue, this demonstrates an unreasonable persistence. Furthermore the fact that TfL has had to develop a customer contact plan to manage its contact with the

complainant, and the complainant has taken action to attempt to circumvent that plan, this demonstrates that the contact, including the FOIA request relevant to this case, has the effect of harassing staff.

The obsessive nature of the request

26. TfL reiterated that the complainant has been complaining about the C10 bus for more than 3 years. Some of this information is in the public domain:

<http://www.fixmytransport.com/campaigns/reply-with-in-timescales-and-be-acco>

27. However, it said that it appears that the complaints do not result from any personal inconvenience caused by the C10 service. It confirmed again that the complaint to London Travelwatch about a late C10 bus included the time of arrival of the next two buses, and it was noted that if he had a need to travel on the bus he would have taken the first that arrived.
28. One of the ways the complainant's obsessive behaviour expresses itself is at Canada Water bus station, noting down times of buses and watching and recording drivers. His behaviour at the bus station has been intimidating and has led to the police being called. TfL considers that the complainant's behaviour at the bus station is linked to his obsession with the C10 and his requests for information about the hours the information booth is staffed are motivated by a refusal to accept that TfL is taking no further action in respect of his complaints.
29. TfL summarised that it does not believe that there is anything further that can be done to address the complainant's concerns, and it considers that answering the latest FOIA request will only fuel the complainant's obsessive behaviour.
30. The Commissioner considers that the complainant's persistence with his issues surrounding the C10 bus, his behaviour at the bus station coupled with the fact that he rarely actually uses this bus service demonstrates the obsessive nature of this latest FOIA request.
31. The Commissioner considers that, viewed in isolation, this request and other individual requests made by the complainant may not seem to impose an unreasonable burden and they are arguably not without a serious purpose. However the Commissioner is mindful of the complainant's behaviour at the bus station and his persistence despite an external body declining to pursue his issues. Taking the overarching theme of the FOIA requests into account, along with the other correspondence and complaints relating to this issue, it appears that the complainant has made this request in an attempt to reopen matters.

Furthermore it is highly likely that responding to this request would lead to further FOIA requests being made. The Commissioner is therefore satisfied that the aggregate disproportionate burden test is met and justifies the conclusion that this request is vexatious. Section 14(1) was therefore correctly applied in this case.

Right of appeal

32. 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

33. 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.
34. 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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