

Freedom of Information Act 2000 (FOIA)

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 17 April 2024

Public Authority: Transport for London
Address: 5 Endeavour Square
London
E20 1JN

Decision (including any steps ordered)

1. The complainant has requested information relating to vehicles captured on ULEZ cameras. Transport for London ('the public authority') disclosed some information but confirmed it didn't hold other information.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority doesn't hold specific information requested and therefore regulation 12(4)(a) (information not held) applies.
3. The Commissioner does not require further steps.

Request and response

4. On 2 June 2023, the complainant wrote to the public authority and requested:

"Please could you provide me -under the Freedom of Information Act – with the following in relation to data from ANPR cameras in London used in calculation of compliance with ULEZ standards:

1.

- the number of different unique vehicles recorded on cameras in London for the month of November 2022 – and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in London for the month of March 2023 – and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in outer London for the month of November 2022 – and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in outer London for the month of March 2023– and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in London for each day in the month of November 2022– and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in London for each day in March 2023– and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in outer London for each day in November 2022– and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

- the number of different unique vehicles recorded on cameras in outer London for each day in March 2023– and how many were compliant with ULEZ. How many were registered to addresses within a. Greater London b. Outer London?

2.

The number of ANPR cameras used by TfL in Greater London in November 2022

The number of ANPR cameras used by TfL in central London zone in November 2022

The number of ANPR cameras used by TfL in Inner London zone in November 2022

The number of ANPR cameras used by TfL in Outer London zone in November 2022

The number of ANPR cameras used by TfL outside Greater London in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre in Greater London in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre in central London zone in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre in Inner London zone in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre in Outer London zone in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre outside Greater London in November 2022

The level of density of ANPR cameras eg how many cameras per square kilometre in Greater London in March 2023

The level of density of ANPR cameras eg how many cameras per square kilometre in central London zone in March 2023

The level of density of ANPR cameras eg how many cameras per square kilometre in inner London zone in March 2023

The level of density of ANPR cameras eg how many cameras per square kilometre in outer London in March 2023

The level of density of ANPR cameras eg how many cameras per square kilometre outside Greater London in March 2023

Can I underline that this is not a request for information about exact locations. It is a request covering large areas of the capital precisely to avoid disclosure of locations."

5. The public authority responded on 2 October 2023. In response to question 1, it disclosed the daily figures which it explained 'can be totalled to provide the monthly figure', except for March 2023 as it didn't hold this data. It confirmed it didn't hold the information for where vehicles were registered, i.e. either within or outside of London; but the DVLA would hold this information. The public authority disclosed all other information requested.
6. The complainant requested an internal review on 7 November 2023, disputing the public authority's position that it doesn't hold the requested monthly data or any data for March 2023.
7. The public authority provided the outcome to its internal review on 8 January 2024. It upheld its previous position.
8. The complainant disputes the public authority's position that it doesn't hold the monthly figures requested or the data requested for March 2023.
9. Therefore the scope of the Commissioner's investigation is to consider whether this is the case.

Reasons for decision

Regulation 12(4)(a) – information not held

10. The request relates to the number of vehicles captured by ULEZ cameras, which monitor the vehicles entering the Ultra Low Emission Zone. Since this information relates to emissions, the Commissioner is satisfied that the TfL was correct to handle the request under the EIR.
11. In cases where a dispute arises over the recorded information held by a public authority at the time of a request, the Commissioner, following the outcome of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. This means that the Commissioner will determine whether it is likely, or unlikely, that the public authority has provided all of the information it holds, in response to the complainant's request, at the time that it was received.

12. In order to make his determination, the Commissioner has considered the public authority's explanation as to why the requested information isn't held and also the complainant's arguments as to why it is.
13. To reiterate, the information in dispute is monthly figures requested and any data for March 2023.
14. The public authority has explained to the complainant that the daily figures it has disclosed in response to the request 'can be totalled to provide the monthly figure' (except for March 2023).
15. When requesting an internal review, the complainant expressed concern that:

"We cannot – as you suggest – get to this important information by adding up what you have provided – as you know. That provides the number of unique vehicles on a given day, but not a quantum over the month excluding repeat vehicles."
16. When raising their complaint with the Commissioner, the complainant elaborated that:

"TfL has published selective data from its camera network. This gives the Ulez compliance of vehicles "seen daily". It then adds these daily numbers together and divides by 30 to give compliance on an "average" day. This is a sleight of hand and an under-estimate of non-compliance. Because different vehicles are driven with different regularity and on different days due to WFH, social use and weekend driving patterns, it is a misleading picture of how many 'unique' vehicles overall are affected. If TfL's camera network and software have the capability to provide daily data, then they can provide monthly data."
17. By the complainant's own admission, the average data that the public authority produces doesn't take into account different driving patterns or any repeat vehicles. These discrepancies appear to be taken into account through daily reporting, but the public authority has confirmed it doesn't work out 'unique' vehicles on a monthly rate.
18. It is only the Commissioner's role to determine, on the balance of probabilities, whether the public authority holds the specific information the complainant is requesting. The public authority clearly calculates monthly figures by adding all of the daily figures together and this is the information that's been disclosed in response to the request. Whether or not the complainant agrees that this method is accurate or suitable for the public authority's business functions isn't the question here.

19. The public authority has confirmed it doesn't record the total number of unique vehicles for the month, just daily, and it has provided what it holds in response to the request. It has confirmed that it calculates monthly figures by adding all of the daily figures together, and has suggested the complainant does the same.
20. The public authority doesn't need to create new information, or change the way it reports on information, because the complainant is dissatisfied with the quality of the information recorded or how the public authority chooses to report on the data it collects.
21. Next, the public authority confirmed to the complainant that it couldn't provide any data for March 2023 'as that was a transitional period in the upgrading of the ANPR camera network and the data was not being routinely recorded at this time. This transition period finished at the end of April 2023.'
22. It seems reasonable to the Commissioner that, if existing cameras were being replaced by ANPR cameras in March – April 2023, this will have compromised the public authority's ability to capture data via those cameras.
23. The complainant is concerned 'about the failure to supply any data for March 2023' but hasn't elaborated how such data could be recorded in the middle of upgrading the camera systems.
24. In the absence of any further rationale from the complainant, and on the balance of probabilities, the Commissioner is satisfied that the public authority doesn't hold the specific requested information and has complied with its section 5 obligations in disclosing all information within scope of the request.

Procedural matters

25. In failing to provide a response to the request within twenty working days of receipt, the public authority breached regulation 5(2) of the EIR.
26. When providing an internal review under the EIR, regulation 11(4) states that the public authority must provide its internal review outcome within 40 working days. The internal review was requested on 7 November 2023 and provided on 8 January 2024. Taking into account UK bank holidays, the Commissioner is satisfied there was no regulation 11(4) breach in this instance.
27. However, the public authority also breached regulation 14(3). Whilst it confirmed it didn't hold specific information, and directed the complainant to the DVLA which would hold some of the information

requested, it failed to specifically cite the appropriate exception, which in this case was regulation 12(4)(a).

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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.

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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