

SCHEDULE 2 – Appendix 13
Information Compliance Processes

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1 DATA PROTECTION NOTICE

1.1 Introduction

1.1.1 Section 1.2.1 gives the text of the Scheme(s) Data Protection Notice that is made available to Customers when they provide their personal Information. The text is subject to change and is provided here as an indication of the size and scope of the Data Protection Notice.

1.1.2 The provision of the Data Protection Notice forms part of TfL's compliance with the first principle of the Data Protection Act 1998 (DPA).

The following requirements detail the circumstances and method of presentation, but by way of illustration, the Data Protection Notice shall be:

- displayed for acknowledgement on the Services Website before submission of Personal Data;
- provided as a recording on the IVR system;
- printed on the PCNs and Charge Certificates;
- provided on request to Customers.
- printed on Discount registration forms and guidance notes;
- available via the internet; and
- available to users of the SMS payment channel.

1.2 Data Protection Notice

Data Protection: Transport for London (TfL) and its agents will Process your information for the operation of the Scheme(s). Processing will include the use of cameras to record data. Your information may be disclosed to, or requested from, the Driver and Vehicle Licensing Agency (DVLA), local authorities, law enforcement agencies and other organisations for the administration (including verification of discount entitlement) and enforcement of the Scheme, the prevention and detection of crime and protection of public funds. TfL randomly selects and monitors vehicles subject to a discount to identify possible fraudulent use. If you persistently fail to pay a Charge due or attempt to defraud the Scheme, TfL may record your vehicle's movements and may disclose relevant details to local authorities and / or law enforcement agencies, to assist in tracing Persistent Evaders and those committing fraud.

2 DATA SUBJECT REQUEST PROCESSES

2.1 Introduction

2.1.1 Given that a number of factors are subject to change, this document is not to be taken as a statement of the final requirements for a Subject Access Request procedure. This is particularly true in respect of the Interfaces to, and cooperation with, Other Service Providers that may be required. However, the intention is to provide a clear indication of the factors that need to be taken into account and the Systems and processes likely to be required.

2.2 Background

The Service Provider shall implement a procedure, agreed with TfL, to handle Subject Access Requests made under section 7 of the DPA. There is also an obligation to respond appropriately to requests received from individuals wishing to exercise their rights under sections 10, 11 or 12 of the Data Protection Act.

2.3 Definitions

A 'data controller' is a person or organisation that decides the purposes for which personal Information will be used and how it will be processed. Transport for London is the data controller in relation to Personal Data processed in connection with the Scheme(s).

A Data Processor is any person (other than an employee of the data controller) who processes Personal Data on behalf of the data controller. The Service Provider is the Data Processor in relation to Personal Data processed in connection with the Scheme(s).

A Data Subject means an individual who is the subject of Personal Data.

2.4 What are 'Subject Access Requests'?

Under section 7 of the DPA any person has the right to contact any 'data controller' they believe holds Information about them and request a copy of that Information.

Applicants are also entitled to be told:

- the purposes for which the Information is being used;
- the recipients or types of recipients to whom the Information may be disclosed;
- any available Information as to the sources of the Information;
- an explanation of any codes, abbreviations etc. used; and
- Information about automated decision-taking if they have specifically requested this (this is where a decision is made in relation to them without any manual intervention – they have a right to question this and ask for a manual evaluation).

Subject Access Requests (SARs) must be made in writing and a fee (which is set by Legislation) can be charged. Currently this is £10 per request irrespective of how much Information is requested.

Applicants are able to request specific Information or all the Information held. The Information requested may be held in electronically or in manual files. It may include such formats as (but is not limited to) emails, letters, photographs and call recordings.

Information must be provided to the applicant within 40 calendar days of the receipt of a SAR, as long as the applicant has provided sufficient Information, the required fee and any confirmation of identity required.

Information must not be destroyed in order to prevent it being provided. However, routine amendments and deletions that would have taken place in any event should continue unless there is a specific reason to prevent this (e.g. a piece of Information that would have been deleted has specifically been requested).

The DPA creates a general right of access to Information of which the applicant is the Data Subject. It does not provide a right of access to Information about Third Parties unless certain conditions are met. The Service Provider shall refer to TfL guidance on this issue.

There are circumstances under which the Information may need to be withheld, such as Information that is being processed for the prevention or detection of crime and where provision of this Information would prejudice the investigation, for example where the Customer making the request is under investigation for possible fraud. Other circumstances include disclosing Information that would be prejudicial to negotiations underway with the Customer (for example over a claim for a Repayment or other Redress) and Information covered by legal professional privilege. The Service Provider should refer to TfL for guidance on these issues.

If a request is being made by someone else on the applicant's behalf, for example, a carer on behalf of a disabled person, they will need to provide proof that they have this authority. The Service Provider shall refer to TfL for guidance in these circumstances.

A SAR can be made as part of a Complaint or Representation. The Service Provider shall prescribe a process to recognise such requests and respond to them.

The form provided to applicants to help them make a SAR will give an address to write to if they want to obtain Information from other parts of TfL outside of the Scheme(s). However, care needs to be taken by the Service Provider to identify any of these requests on receipt so they can be re-directed to TfL.

Sometimes an applicant will apply to TfL for all their Information and the Service Provider (in addition to Other Service Providers where relevant) shall extract the Information held on the applicant and supply this back to TfL.

For example, the Service Provider will forward a request on to an Other Service Provider because they hold the Data requested, or the Service Provider will request information to be supplied back to them to fulfil a request. This must be supplied in accordance with the Service Levels and in a format as agreed between the relevant Other Service Providers and TfL.

Requests that include a Complaint about Data Protection or a request to exercise another right under the DPA should be recognised and handled according to the Data Protection complaints procedure agreed with TfL. This includes the three scenarios outlined below.

Under section 10 of the DPA, an individual is entitled to give written notice (known as a Data Subject Notice) at any time to require the data controller to cease, or not to begin Processing any Personal Data where the Processing of that Data is causing or would be likely to cause substantial damage or distress, to themselves or another.

Under section 11 of the DPA, an individual is entitled to give written notice at any time to require the data controller to cease, or not to begin, the Processing of Personal Data of which that individual is the subject, for the purposes of direct marketing. In this case, the term direct marketing means the communication – by any means - of any advertising or marketing material that is directed towards particular individuals.

Under section 12 of the DPA, an individual is entitled to give written notice at any time to require a data controller to ensure that no decision taken by or on behalf of the data controller is based solely on an automated means of Processing Personal Data.

Note that individuals that are sole traders or partnerships are protected by the Data Protection Laws; companies are not.

2.5 Responsibilities

TfL's role is to ensure:

- that the Service Provider has correctly implemented a procedure to handle SARs and requests made under sections 10 – 12 inclusive;
- to provide Policy Guidance;
- to monitor the number of SARs; and
- to liaise with other parts of TfL, the Information Commissioner and the Service Provider should there be a Complaint about a SAR.

The Service Provider's role is:

- to implement a procedure to handle SARs within the time limits and Service Levels stipulated by TfL;
- to implement a procedure to handle requests from individuals to exercise their rights under sections 10 – 12 inclusive of the DPA;
- to ensure that there is at all times a member of the Service Provider's Personnel with sufficient seniority and understanding to manage SARs;
- to interface with Other Service Providers where the Information required by an applicant is held by more than one service provider;
- to ensure that all Personnel are trained to recognise a SAR and know what they should do when one is identified;
- where the Service Provider (or its Sub-Contractor) is sending a response direct to the applicant who has made a SAR, the response must be provided so as to be delivered to the applicant within 40 calendar days of their request having been received (wherever the request was initially received);
- where the Service Provider (or its Sub-Contractor) is required to supply Information to TfL or Other Service Provider in order that they can respond to a SAR, the Service Provider must supply the Information required within such time and in such form as specified in the request from TfL or an Other Service Provider (such time to be reasonable).
- to report to TfL on the number of requests received; and
- to liaise with TfL on any complaints or policy issues arising in connection with SARs (it is expected that this will be with the Scheme(s) Information Compliance Manager).

2.6 Forms & Letters & Other Materials

The Service Provider shall devise a form to help applicants to make a SAR. This should be based on the form currently used but may need modification, with guidance from TfL. The form should be made available in hardcopy format and also in soft copy format on the Services Website.

Individuals who provide all the necessary Information and the fee required by other means should not be required to fill out a form.

The Service Provider shall devise letters that are required to use in connection with Subject Access Requests. These should be based on those currently used but may need modification, with guidance from TfL.

TfL should provide a camera System information leaflet, copies of which will be supplied to the Service Provider to send out with each response to a SAR.

The Service Provider shall produce a list of explanations of codes, abbreviations and terms that are not explained elsewhere.

The Service Provider shall provide the Data Protection Notice and a list of possible sources and recipients of Information held. This should be agreed with TfL and included with each response to a SAR.

2.7 Systems

As far as feasible, these should be electronic and minimise manual / paper-based processes.

The Service Systems shall be capable of processing and recording payments for SARs but should not require a payment to progress a request. The Service Provider must adhere to the payment information detailed in section 7 of the Business Operations Statement of Requirements. The Service Systems should allow for payments to be waived in certain circumstances and be capable of refunding request payments. TfL will determine in what circumstances payments may be waived or refunded.

The Service Systems shall be capable of logging and tracking requests to ensure they are fulfilled within the timescales stipulated by TfL; to support reporting and to allow auditing and support investigation should a Complaint about the handling of a request be received. The Service Systems shall be capable of scanning and processing into Workflow SAR forms but also requests received in other formats (e.g. in a letter, and requests for Information received from TfL or Other Service Providers).

The Service Provider shall keep an up-to-date log of all Data repositories to ensure that it can perform a complete search when a request asks for 'all Information'.

The Service Systems shall provide automated search, retrieval and printing functionality for all personal Information repositories. This is to minimise the manual effort involved in Processing requests. The Service Provider shall agree the search parameters to be used with TfL. The ability to search call recording platform and provide Data in CD-ROM or other suitable format to allow Customer to play back.

2.8 Processes

The Service Provider shall train staff on how to recognise an initial request and how to advise the applicant on progressing it. The request may be received by the Contact Centre, via a Web enquiry form or by post. The request may be on its own or combined with a Representation, request, Complaint or other communication.

The Service Provider shall have a procedure for sending out SAR forms to enquirers or directing them to the soft copy on the Services Website as appropriate. The Service Provider shall also have a procedure for dealing with requests in other formats and requests that do not contain the required information or fee.

The Service Provider shall develop a process for checking requests to ensure they contain all required information, including sufficient information to confirm identity and the fee required.

2.9 Reporting

The Service Systems shall support TfL's reporting requirements.

2.10 Checklist

The checklist in Table 1 gives step-by-step guidance on handling SARs. This shall be reflected in the procedure implemented by the Service Provider.

Table 1: SAR checklist

Trigger	Action	Requirements
Individual asks how they can get copy of their information (either specific information or all information)	<ul style="list-style-type: none"> ▪ Recognise request and advise applicant how they can progress it ▪ Advise that request must be in writing ▪ Recognise if sufficient information and fee is already provided by the applicant ▪ Recognise if request is for information that is held by an Other Service Provider and/or TfL and redirect Customer to correct point of contact 	<ul style="list-style-type: none"> ▪ Staff training ▪ Customer contact details for Other Service Providers
SAR received – either using form or by other means e.g. letter request may also be received via TfL or Other Service Provider	Scan into Workflow and direct to correct queue	<ul style="list-style-type: none"> ▪ Workflow queue assigned to SARs ▪ Designated staff to Process SARs ▪ Ability to progress requests where the request is from an Other Service Provider or TfL and the information must be returned to them not the Customer who has made the request

Trigger	Action	Requirements
<p>Check request is complete</p>	<ul style="list-style-type: none"> ▪ Check that sufficient information is provided ▪ Check that payment is provided ▪ Check that copies of identity documents have been provided ▪ Check that request is for information held by the Service Provider ▪ Check whether that request is part of a campaign or a repeat request <p>Note - a request for Information is not a repeat request where new Information has been added to the System since the last request (e.g. a new Penalty Charge Notice has been incurred), or where a reasonable period of time has elapsed since their last request, e.g. three (3) Months</p>	<ul style="list-style-type: none"> ▪ Payment processing functionality - that also supports progression of the request without payment ▪ Process to forward requests to an Other Service Provider ▪ Logging and tracking functionality for SARs ▪ Ability to suspend timeline where further information / fee / clarification is required ▪ Ability to send communication to Customer to request missing information/payment ▪ Ability to alert TfL to concerted campaigns ▪ Ability to reject SAR where necessary

Trigger	Action	Requirements
Start search for information	<ul style="list-style-type: none"> ▪ Recognise if part of request is for Information held by TfL or Other Service Providers ▪ Recognise if request is for 'all' or specific Information ▪ Recognise if there is a policy issue that needs escalating to TfL 	<ul style="list-style-type: none"> ▪ Automated search functionality ▪ Ability to inform TfL and/or Other Service Providers of requests for information held by them ▪ Processes to interface with TfL and/or Other Service Providers on management of multi-part requests where Information is held by the Service Provider and Other Service Providers and/or TfL ▪ Ability to log and track requests made to Other Service Providers and/or TfL where the Service Provider is required to obtain information from them that must be included in the response sent to the Customer ▪ Ability to send out a letter to the Customer acknowledging receipt of their request ▪ Clear escalation procedures
Track request	<ul style="list-style-type: none"> ▪ Track the request to ensure that it is progressing within the stipulated timescales ▪ Check for problems or logjams ▪ Alert TfL or Other Service Providers if the Information may not be provided within the stipulated timescales 	Logging and tracking functionality
Compile Information	<ul style="list-style-type: none"> ▪ Print out Information and check it is complete ▪ Chase up any missing Information ▪ Check call recording database if applicable download call to suitable media. 	Secure storage for Information in hardcopy

Trigger	Action	Requirements
Check Information	<ul style="list-style-type: none"> ▪ Check Information matches request ▪ Check details of Customer or their Vehicle in the Information match those in the SAR ▪ Check for Information about Third Parties (and follow TfL guidance on whether to mask or otherwise remove this) ▪ Check for any other Information that should not be disclosed because it is covered by an exemption (e.g. Information relating to an investigation of the Customer where this would be prejudiced by the provision of the Information) ▪ Add camera information leaflet ▪ Add sheet on codes, sources, etc. ▪ Customise letter to send out with the material 	<ul style="list-style-type: none"> ▪ Guidance from TfL on treatment of Third Party Information; exempt Information and any other Information that should not be provided ▪ Ability to produce letter and print it out locally so that it can be added to the information retrieved ▪ Ability to add free text to the letter where necessary
Record Information supplied	Record what Information was supplied to the applicant. This is in case of Complaints that not all Information requested was supplied.	Ability to record what Information was supplied to the Customer and to retain a copy for the period stipulated in the Data Retention Policy

Trigger	Action	Requirements
Dispatch Information	<ul style="list-style-type: none"> ▪ The response should be sent out by recorded delivery and marked 'Private & Confidential - Addressee only'. The response should be sent first class if there are less than five (5) days until the forty (40) day deadline is reached ▪ This is in case of Complaints received that the Information was not received ▪ Where the Information is being supplied to an Other Service Provider or TfL to fulfil the request, the Information should be dispatched by the (secure) method agreed and a copy held until receipt is confirmed by the Service Provider / TfL 	Ability to send out the response using chosen method of post.
Provide reports to TfL	<ul style="list-style-type: none"> ▪ Provide reports on a weekly basis (or as otherwise stipulated in the requirements). By way of illustration these reports are likely to need to include: <ol style="list-style-type: none"> i. Number of completed SARs to date; ii. Number of SARs outstanding and earliest date received; iii. Number of SARs for 'all' Information; iv. Number of SARs where Information required from Other Service Providers / TfL; and v. Number and details of any SARs that reveal an error in the Service Provider's processing (e.g. PCN issued in error). 	Functionality to produce and provide reports to TfL's specifications

3 INFORMATION REQUESTS PROCEDURE

3.1 Background

This section refers to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

The FOIA and EIR give the public the right of access to Information held by public authorities, of which Transport for London is one. EIR specifically govern the disclosure of Information relating to the environment, broadly defined as:

- information relating to the state of the elements of the environment, and the interaction of these elements;
- information relating to factors affecting or likely to affect the elements of the environment;
- measures, including administrative measures, and activities affecting or likely to affect the elements and factors referred to above, and measures or activities designed to protect those elements;
- reports on the implementation of environmental Legislation;
- cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to above; and
- the state of human health and safety.

FOIA governs the disclosure of all other Information, other than Personal Data disclosed to the Data Subject, which is covered by section 7 of the DPA as described above.

Under both pieces of Legislation, TfL has a duty to confirm or deny whether or not the requested Information is held; and to supply a copy of the Information if it is held unless an exemption applies.

Requests for information made under FOIA must be made in a permanent format. This may include by letter, email or fax. The public authority has a duty to advise and assist anyone contacting it (or their contractors) to ask how to request information.

Requests for information received under EIR can be made verbally as well as in writing. However, a process should be in place to enable Customer Service Representatives to record a written copy of the request.

Valid requests for information under FOIA and EIR should:

- Make a request for information; and
- Include an address for response (this can simply be an email address).

There is no obligation for applicants to prove their identity, use their real name, mention FOIA or EIR or disclose why they want the information requested.

Information held by any Service Provider or contractor or sub-contractor in relation to a contract with TfL is also subject to public access. This includes tenders relating to contracts including unsuccessful tenders.

The Service Provider shall be aware that any documents that have been protectively marked as 'confidential' or 'commercial in confidence' will not necessarily prevent disclosure under FOIA or EIR.

It is a criminal offence under FOIA to alter, conceal or destroy Information with the intention of preventing the disclosure of that Information to an applicant. However, routine

amendments and deletions that would have taken place in any event should continue unless there is a specific reason to prevent this (e.g. a piece of Information that would have been deleted has specifically been requested).

Where information requested relates to the applicant themselves, then the applicant shall be advised to make a SAR under the DPA.

Final responses to FOIA and EIR requests must be supplied within twenty (20) Working Days of a request being received by the public authority (or its service providers or contractors).

Under FOIA, exemptions can be applied to some Information to prevent disclosure but many exemptions are subject to a 'public interest' test where the authority must consider whether it is more in the public interest to supply or withhold the Information.

Under EIR, exceptions can be applied to some Information to withhold disclosure. All exceptions are subject to public interest considerations and the authority must consider whether it is more in the public interest to supply or withhold the Information.

3.2 Responsibilities

TfL will be responsible for:

- responding to requests under FOIA and EIR;
- determining whether exemptions or exceptions are to be applied;
- applying the 'public interest' test;
- determining whether or not the cost limit has been reached and whether or not to proceed with the request;
- consulting with Third Parties and the Service Provider, as necessary, prior to disclosing Information under the Legislation; and
- handling the Complaints procedure and any requests for review.

The Service Provider shall:

- train its staff to recognise requests made under FOIA and EIR and the process they should follow, even when those requests are included in other correspondence, like Representations;
- train staff to distinguish between requests to be handled in this way and business as usual correspondence that can be handled without escalation to TfL;
- have a designated member of staff at all times who will ensure the Service Provider's compliance with TfL's requirements in relation to FOIA and EIR;
- provide guidance to the public where a request can be satisfied by Information that is already published;
- forward all other requests to TfL via the agreed channel and within the required timescale;
- respond to all requests from TfL for the provision of Information required to satisfy a request within the required timescale ;
- inform TfL of the staff costs involved in retrieving the Information - if over £450 (based on eighteen (18) hours of work in retrieving, locating, or redacting the Information), TfL is entitled to charge the requester the full cost over and above £450; and
- provide reasonable advice and assistance to Customers unable to make a request in writing.

For avoidance of doubt, no additional costs will be paid to the Service Provider for handling the retrieval of information in response to FOIA or EIR requests, even if the costs exceed £450.

FOIA or EIR request can be made as part of general correspondence, Complaint or Representation. The Service Provider shall prescribe a process to recognise such requests and respond to them.

3.3 Systems

The Service Provider shall ensure that its Systems can support the retrieval of information requested under FOIA and EIR within the timescales required by TfL.

The Service Provider shall keep an up-to-date log of all Data repositories (containing Data held on TfL’s behalf) to ensure that it can perform a complete search to respond to FOIA and EIR Requests from TfL.

The Service Provider’s Systems shall support the retrieval and presentation of the Information in the delivery format required by TfL.

Should the Information already be available via the MIS, it is likely it will be taken from there. However, there may be requests for other Information that is not held in the MIS.

Information does not have to be manipulated or restructured if it is not held in the format the person has requested. But the raw Information that pertains to their request will need to be supplied. However, raw Information may often need to be redacted or restructured to prevent the undesirable disclosure of Information where an exemption or exception applies, or is outside the scope of a request.

The Service Provider shall supply the Information to TfL in full even if the Service Provider believes an exemption may apply. TfL will determine whether this is the case.

The Service Provider shall have logging, tracking and reporting functionality in place to ensure it meets its obligations in respect of FOIA and EIR requests.

3.4 Processes

The Service Provider shall have a process in place to ensure it:

- recognises FOIA and EIR requests;
- forwards FOIA and EIR requests to TfL;
- supplies Information requested by TfL to respond to a FOIA or EIR request; and
- records its actions to meet reporting requirements.

3.5 Reporting

The Service Provider shall report to TfL in relation to FOIA and EIR requests in accordance with schedule 5: Service Level Agreement.

3.6 Checklists

The checklist gives step-by-step guidance on dealing with FOIA and EIR Requests. This shall be reflected in procedures to support this implemented by the Service Provider.

Table 2: FOIA/EIR checklist

Trigger	Action	Requirements
Individual contacts one	• Request is recognised as a	• Training for staff

Trigger	Action	Requirements
<p>of the Customer contact points managed by the Service Provider, making a request for information under FOIA or EIR</p>	<p>request under FOAI or EIR (whether the person states this or not)</p> <ul style="list-style-type: none"> ▪ Individual is directed to published information if their request is for information already available to the public ▪ Where request already provides sufficient information or a completed form is supplied, this is forwarded without delay to TfL at the contact point designated by TfL ▪ Any complaints relating to FOIA or EIR are escalated without delay to the designated contact at TfL ▪ Requests received are logged and reported on to TfL as required 	<ul style="list-style-type: none"> ▪ Contact point at TfL for FOIA / EIR requests ▪ Designated member of staff to oversee the Service Provider's compliance with TfL's requirements in relation to FOIA and EIR ▪ Logging, tracking and reporting functionality
<p>Requests for information under FOIA or EIRs received from TfL</p>	<ul style="list-style-type: none"> ▪ Request is logged ▪ Search is instituted for the Information ▪ The Service Provider checks that the correct and complete Information has been retrieved. ▪ All Information is supplied to TfL in the format requested and by the method agreed with TfL ▪ Where no Information can be found, this is reported to TfL ▪ A response to TfL is given within five (5) days and where Information is found, this is supplied within five (5) days of the Service Provider receiving the request from TfL 	<ul style="list-style-type: none"> ▪ Ability to log and track requests and report to TfL in accordance with schedule 5: Service Level Agreement ▪ Personnel to manage retrieval, checking and supply of Information