

Date: 17 March 2017

Item: Legal Compliance Report (1 April 2016 – 30 September 2016)

This report will be considered in public

1 Summary

1.1 This paper summarises the information provided by each TfL Directorate for the Legal Compliance Report for the period 1 April 2016 to 30 September 2016.

2 Recommendation

2.1 **The Committee is asked to note the report.**

3 Background

3.1 The Legal Compliance Report is compiled from information supplied through questionnaires completed by each TfL Directorate and follow up discussions concerning known legal compliance issues.

4 Scope of the Report

4.1 The Directorates were asked to identify where they are aware of any alleged breaches of law between 1 April 2016 and 30 September 2016. The questionnaire sought responses concerning the following:

- (a) prosecutions against TfL;
- (b) formal warnings or notices from the Health and Safety Executive, the Office of Rail and Road, the London Fire and Emergency Planning Authority, the Environment Agency, the Information Commissioner or other Government Agencies;
- (c) investigations by an Ombudsman;
- (d) alleged legal breaches notified by Local Authorities or other bodies;
- (e) judicial reviews;
- (f) involvement in inquests;
- (g) commercial/contract claims in excess of £100,000;
- (h) personal injury claims;
- (i) proceedings in relation to discrimination on the grounds of race, sex, disability, age, religion or belief, sexual orientation, equal pay or breach of contract;

- (j) wrongful or unfair dismissal;
- (k) actions to recover unpaid debt in excess of £5,000;
- (l) breaches of EU/UK procurement rules and/or the Competition Act;
- (m) other material breaches of the law;
- (n) any other material compliance issues; and
- (o) any initiatives introduced by Directorates to address compliance issues.

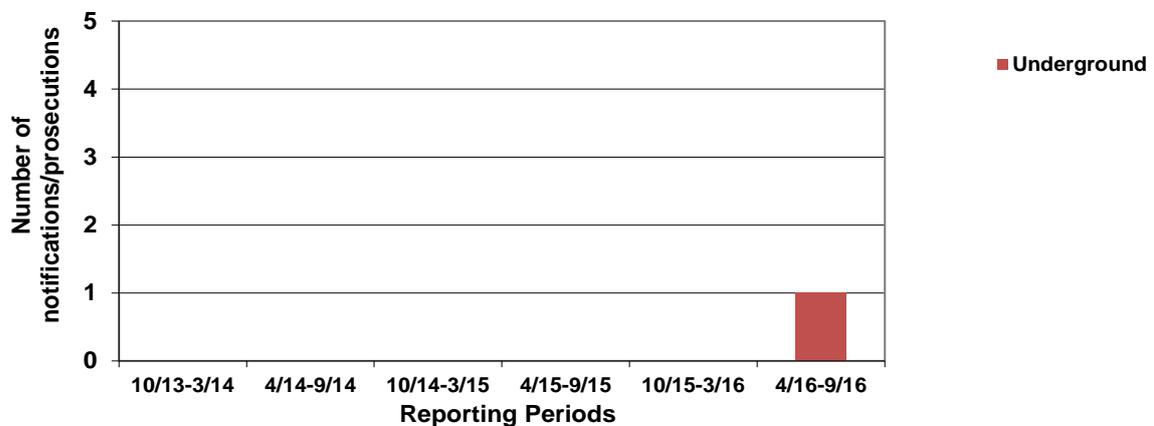
4.2 The reporting periods for the graphs included in this report follow the six monthly Legal Compliance reporting periods from April to September and October to March. The graphs commence in the reporting period covering October 2013 – March 2014. Each period includes any ongoing matters carried over from previous reporting periods where applicable. In accordance with TfL’s commitment to transparency, the legal compliance report is included in this public paper.

5 Commentary on Legal Compliance Issues

Notification of Intention to Prosecute

5.1 Notification of Intention to Prosecute was served by the ORR in June 2016 following an accident which occurred in September 2014. An employee fell from a scaffold tower erected in a disused lift shaft at South Kentish Town station for the purpose of cleaning the shaft. London Underground was prosecuted for offences under sections 3(1) and 33(1) (a) Health and Safety at Work etc. Act 1974, and Tube Lines Limited for offences under sections 2(1) and 33(1)(a) of the 1974 Act. London Underground pleaded guilty and the ORR withdrew the proceedings against Tube Lines. The sentencing hearing took place on 2 December and London Underground was fined £500,000.

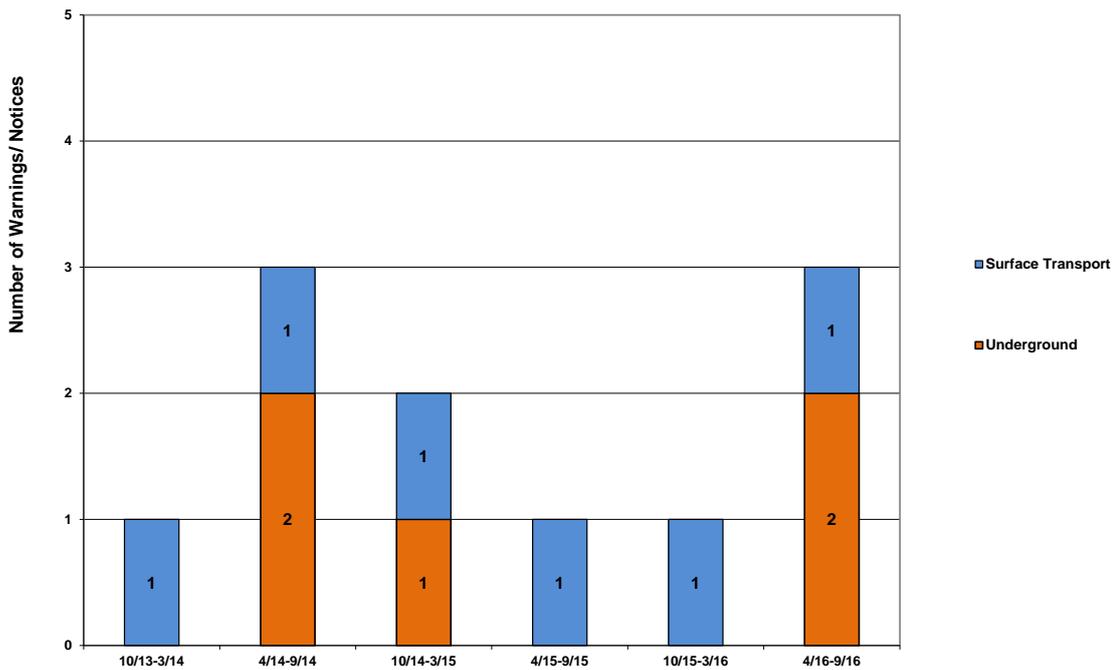
Prosecution Notices



Formal Warnings or Notices from the Health and Safety Executive (HSE) or Office of Rail and Road (ORR)

- 5.2 Surface Transport previously reported an incident on the A40 in November 2011, in which a motorcyclist was injured as a result of temporary bridging plates installed over defective expansion joints on the A40 Westway. The HSE investigation is still ongoing and no formal warning or notices have been issued to date.
- 5.3 As reported in the previous report, the ORR served an Improvement Notice on London Underground in relation to an embankment failure which occurred on 1 May 2016 between Chorleywood and Rickmansworth stations on the Metropolitan line. The ORR concluded that after the slip was reported London Underground should have ordered a suspension of service until an assessment of the stability of the embankment was carried out by a properly qualified person rather than, as happened, London Underground and Chiltern Line trains being allowed to continue running past the area of the slip on speed restriction for a period. The notice also refers to concerns over the length of time it took London Underground to inform Chiltern Rail of the embankment failure and also the lack of guidance in the line operating procedures for the Metropolitan line for action to be taken in the event of an infrastructure failure such as an embankment failure. The improvement required of London Underground by the ORR is to review and amend operating procedures to ensure that they cover what to do in the event of an infrastructure failure and what to do until the situation has been assessed to ensure safety of staff, passengers and the public generally. The improvements were agreed between London Underground and ORR and were put in place by December 2016.
- 5.4 Since the end of the last reporting period, London Underground has reported a new Improvement Notice received from the ORR in relation to an incident in the early hours of 4 June 2016 at Whitechapel station. An On-Track Plant machine was travelling in a convoy along the railway tracks from West Ham when it trapped and crushed its controller between the side of the machine and the platform edge. The machine controller, an employee of Balfour Beatty Rail Limited (BBR), suffered serious injuries.
- 5.5 The Improvement Notice states that London Underground permitted BBR to move On-Track Plant on its infrastructure travelling on rails and in convoy to a site of work without satisfying itself that a safe system of work had been planned and was being maintained to control risks. London Underground was required to review the arrangements between it and BBR to ensure that the risks associated with moving On-Track Plant in convoy along rails are fully assessed, and a safe system of work is devised to either eliminate the risk to machine controllers being struck by such machinery or to control the risks as far as possible. The improvements were agreed between London Underground and ORR and were put in place by December 2016.

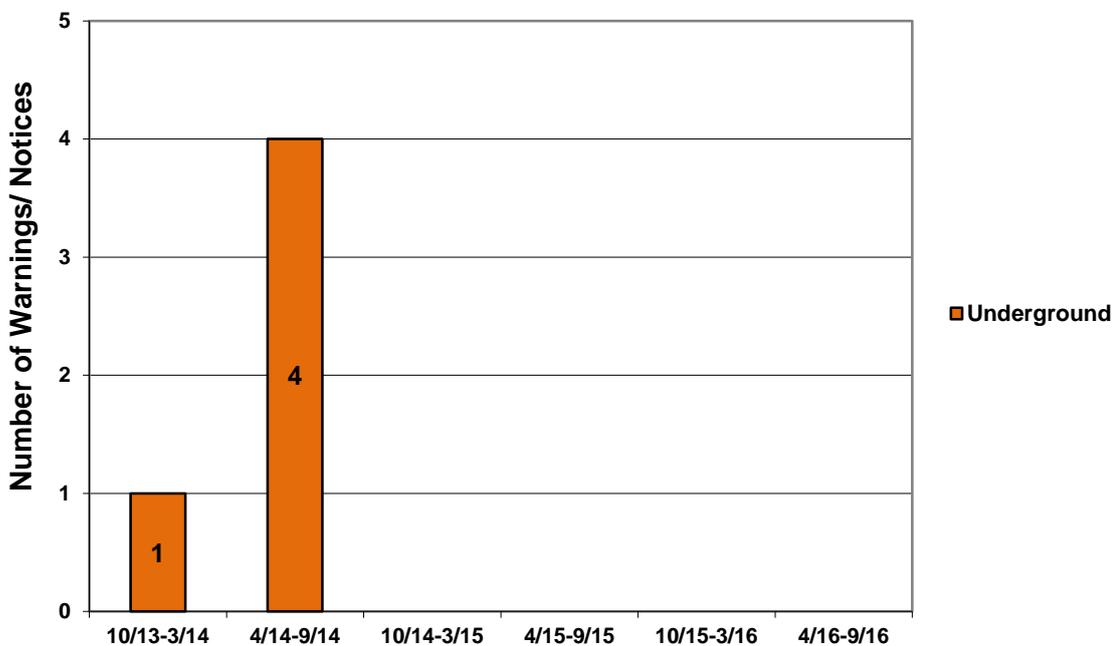
HSE/ ORR Formal Warnings or Notices



Formal Warnings or Notices from the London Fire and Emergency Planning Authority (LFEPA)

5.6 No warnings or notices were reported for this period.

LFEPA Formal Warnings/Notices

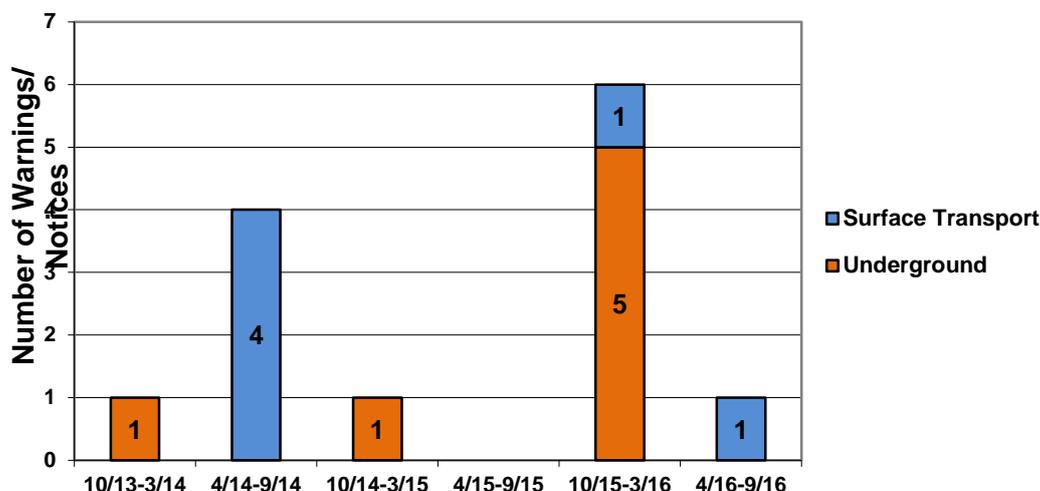


Formal Warnings or Notices from the Environment Agency

5.7 In the last report, Surface Transport reported a letter dated 23 March 2016 from the Forestry Commission issuing a Notice under Article 31(4) of the Plant Health (Forestry) Order 2005 in relation to an infestation of Oak Processionary Moth (OPM) on oak trees on TfL property on Wickham Road Street, Croydon. The

Notice required the destruction or treatment of the OPM infestation by 15 July 2016. The required work was completed prior to the deadline.

Environment Agency Formal Warnings/Notices



Formal Warnings or Notices from the Information Commissioner

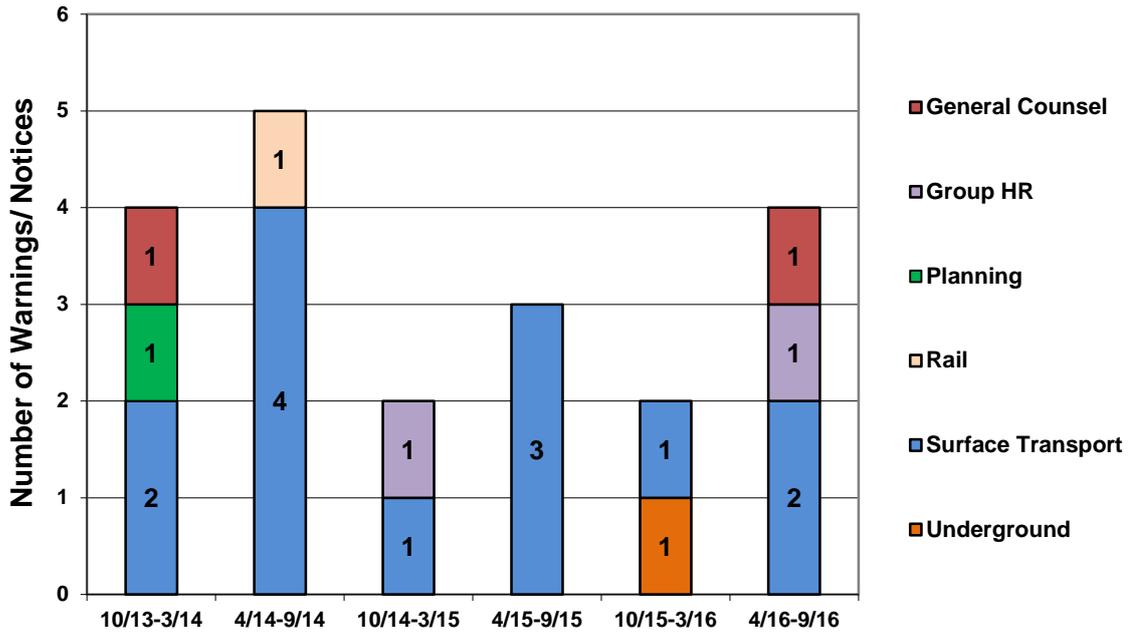
- 5.8 The Information Commissioner's Office (ICO) investigates alleged instances of non-compliance with the Data Protection Act 1998 (the DPA), the Freedom of Information Act 2000 (the FOIA), Environmental Information Regulations 2004 (the EIRs) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the PECR).
- 5.9 No formal action was taken by the ICO between 1 April and 30 September 2016 in connection with TfL's compliance with the DPA.
- 5.10 During this period, the ICO notified TfL of four new complaints from individuals who considered that TfL had failed to process their personal data in accordance with the DPA. The first of the new complaints arose in connection with a subject access request (SAR) where the requester claimed that he had not been provided with all the data to which he was entitled within the statutory deadline of 40 calendar days. The requester also complained about being asked to provide clarification of his request. The ICO found that TfL was in breach of the DPA as a result of the response being sent late but required no further action as TfL was putting appropriate remedial steps in place.
- 5.11 The second new complaint also arose in connection with a SAR where a response was sent late due to an administrative error. The ICO found TfL to be in breach of the DPA as a result of the late response but required no further action.
- 5.12 The third new complaint arose in connection with a SAR for London Underground CCTV footage. Although the request was submitted correctly and within the 14 days retention period for station CCTV footage, the footage was not downloaded promptly and was overwritten before it could be considered for disclosure. TfL's response to the ICO outlined some remedial actions that would be taken to improve CCTV SAR responses, and confirmed that this was being raised with the

BTP (who provide download services to London Underground). The ICO required no further action to be taken.

- 5.13 The fourth new complaint concerned an inappropriate disclosure of sensitive personal data. Meeting notes which contained details of the complainant's medical conditions were sent to an individual with no connection with the case who shared the same name as the complainant's representative. The ICO found that TfL had breached the DPA but required no further action as the breach was the result of an error.
- 5.14 There were three outstanding data protection complaints from the previous reporting period. The first one concerned a presentation given by TfL and the Metropolitan Police to representatives of the taxi trade. The presentation included statistical information regarding sexual assaults in taxis and private hire vehicles and the complaint alleged that personal data may have been disclosed. The ICO found that no breach of the DPA occurred, as the statistical data did not identify any individuals and it was police data, not TfL data, in any event.
- 5.15 The second outstanding complaint related to an allegation that the complainant's health data had been disclosed to those who had no business need. The alleged recipients denied any such disclosure had taken place and the ICO found that there was insufficient evidence to substantiate a finding that a breach had taken place.
- 5.16 The third outstanding complaint arose in connection with an arrangement not to refer to the complainant by name in emails relating to an investigation. The complainant complained that this was a breach of the law and was designed to frustrate his right of subject access. However, the ICO found that, while avoiding the use of the complainant's name may not have been consistent with best practice, there was no breach of the DPA.
- 5.17 The previous report noted that the ICO had been informed that the Santander Cycle Hire Scheme was the subject of cyber attacks in December 2015/January 2016 and March 2016. The attacks were similar in nature and involved attempts to access customer accounts via the Scheme's website and mobile app. All affected customers were informed at the time and offered ID theft protection. Since the end of the reporting period the ICO has confirmed that no further action will be taken.
- 5.18 The FOIA and the EIRs give a general right of access to information held by public authorities. Public authorities are generally required to respond to requests for information within 20 working days and provide the requested information unless an exemption applies. Any person who has made a request to a public authority for the disclosure of information under the FOIA or the EIRs can apply to the ICO for a decision on whether a request has been dealt with in accordance with the FOIA or EIRs. Appeals against the ICO's decisions are heard by the First-Tier Tribunal (Information Rights).
- 5.19 TfL received 1153 requests under the FOIA and EIRs between period 1 2016/17 and period 6 2016/17, and responded to 81.1 per cent of such requests within the statutory time limit.

- 5.20 Two complaints to the ICO were outstanding from the end of the last reporting period. One complaint, which related to the supply of traffic modelling data, was withdrawn by the applicant after it became apparent that all available information had been provided. The ICO issued a Decision Notice dismissing the second complaint, which focused on whether a complaints case file should be provided to the applicant under the Freedom of Information or Data Protection Act, and also questioned whether all information had been provided. The applicant appealed to the Information Tribunal, which joined TfL to the proceedings and a hearing was held on 26 October 2016. After the end of the reporting period, the Tribunal ruled in TfL's favour, dismissing the appeal.
- 5.21 During this reporting period TfL were notified by the ICO of eight new complaints regarding TfL's handling of FOI and EIR requests. Three complaints remain open, these relate to a complaint regarding a delay in responding to an Internal Review request; the refusal of a request for historic information about the redevelopment of South Kensington station on the grounds that it was manifestly unreasonable; and a complaint about the application of an exemption preventing disclosure of information contained in communications with the Royal Household about the naming of the Elizabeth Line.
- 5.22 Three complaints were closed during this period. The first related to the refusal to provide details of legislation used by TfL to introduce the requirement that taxis accept card payments on the grounds that the legislation was already published. A Decision Notice was issued in TfL's favour.
- 5.23 The second complaint related to the TfL Pension Fund and rights of access to company information held by a non-executive Director and TfL employee nominated to the board of a private company in which the Fund had invested. The ICO found that TfL did not hold the information for the purposes of the FOI Act and a Decision Notice was issued in TfL's favour.
- 5.24 The third complaint was withdrawn by the requester. The original request for a draft of TfL's response to a bus route consultation was refused on the grounds that it was intended for future publication. The ICO advised the complainant that it intended to uphold the use of the exemption. The consultation response has now been published.
- 5.25 Since the end of the reporting period, two complaints have been closed. In the first, we received a Decision Notice in TfL's favour dismissing a complaint that relevant information had not been located in response to an FOI request relating to the outcome of complaints made against bus drivers. In the second, a Decision Notice in TfL's favour was issued in a case concerning a request for disclosure of correspondence with a taxi operator.
- 5.26 In addition to the FOI and EIR complaints raised with the ICO, there was an outstanding case with the Upper Tier Tribunal. The ICO had issued a Decision Notice in January 2013 upholding TfL's use of the FOI cost limit to withhold information relating to the ethnic origin of those involved in grievance proceedings. The requester appealed to the First-Tier Tribunal (Information Rights) and the Tribunal dismissed the appeal on 3 December 2013. The requester sought leave from the Upper Tribunal to appeal this decision and a hearing took place on 16 February 2016. The Upper Tribunal dismissed the appeal.

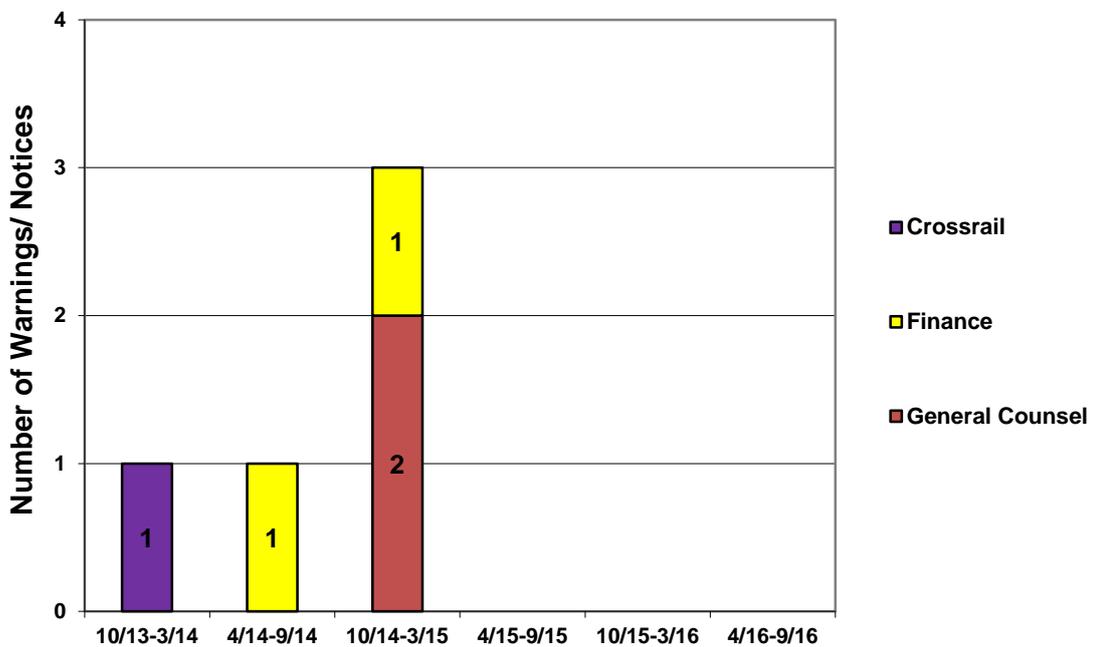
Information Commissioner Formal Warnings/Notices



Formal Warnings or Notices from any other Government Department or Agency Indicating a Breach of Law

5.27 No formal warnings/notices were received during this period.

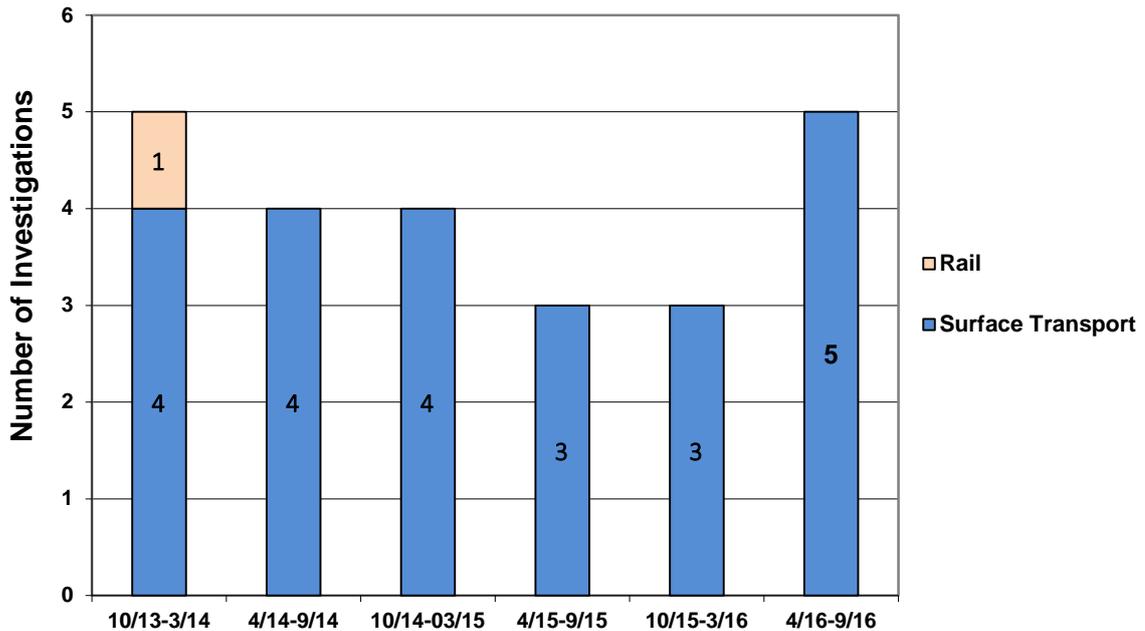
Other Government Agencies Formal Warnings/Notices



Investigation by an Ombudsman

- 5.28 Surface Transport reported one outstanding investigation from the last report and four new investigations. The outstanding investigation relates to changes to a coach stop blocking the light to the complainant's property. The four new investigations relate to the refusal of a PHV driver licence application and handling of topographical assessments following the removal of the assessment centre's certification to carry out assessments; a complainant not receiving medical attention following an accident at St James's Park station when they fell between the train and the platform; an increase in noise following changes to a head house (station building) outside a property; and noise and disturbance caused by vibrations from a Tube line.
- 5.29 In the outstanding investigation, as previously reported, the LGO requested TfL to amend the bus cage (bus stop sign on the road surface) and its policies for handling appeals submitted late. The LGO concluded its investigation however discussions between TfL and the complainant were ongoing as to the remedial action that could be taken. Remedial works were carried out in February 2016. No further correspondence has been received and TfL regards the matter as closed.
- 5.30 In the first new investigation, the LGO requested TfL to provide information on why the assessment centre's certification was removed and to propose a solution to the matter. TfL provided the requested information and proposed to refund the fee paid by the complainant for the topographical assessment. The LGO was satisfied with the outcome and the matter will be closed.
- 5.31 In the second new investigation, the LGO found no fault in the action TfL took in their actions to assist the complainant.
- 5.32 In the third new investigation, the LGO has requested copies of TfL correspondence and details of any action taken to address the noise issue. The complainant has requested that the structure be redesigned or rebuilt to prevent noise from the building in between cleaning programmes. TfL concluded that it would not be feasible to do so and that the noise readings are not excessive. TfL awaits further correspondence from the LGO.
- 5.33 In the fourth investigation, the LGO found TfL not to be at fault, as the complainant has refused to permit TfL access to the property to take a noise reading. The LGO is satisfied that TfL remain willing to work with the complainant to address their concerns.

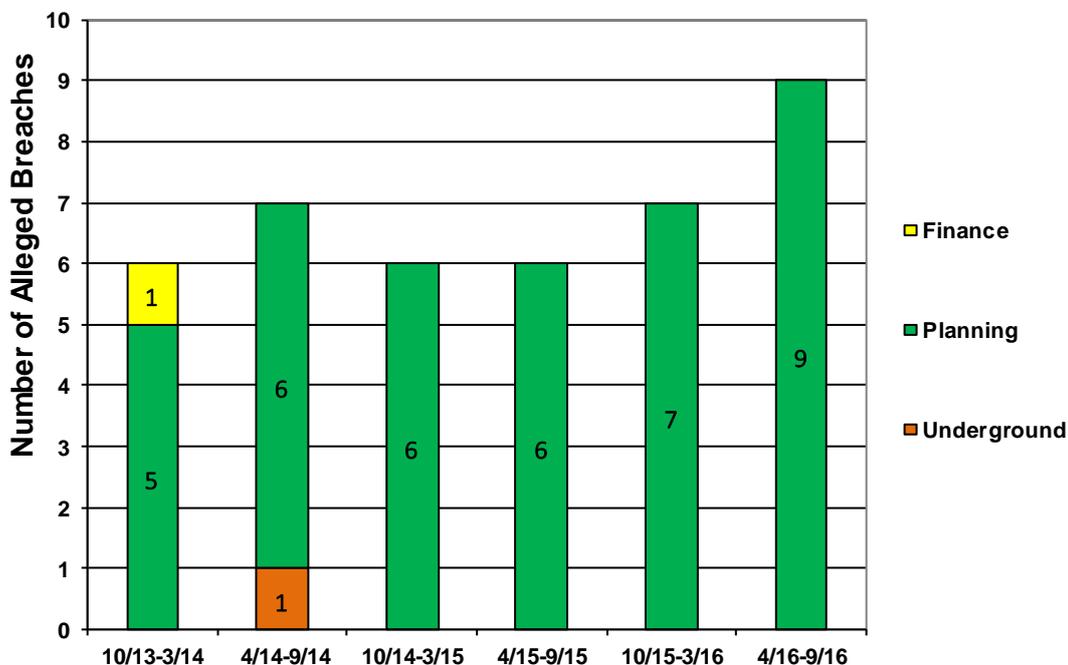
Investigations by Ombudsman



Notices Received Regarding any Alleged Breach of Law by a Local Authority or Other External Agency

- 5.34 Planning reported four outstanding Enforcement Notices from the previous reporting period and five new notices in the current period. The first outstanding notice was a Decision Notice of an Enforcement Appeal received on 25 October 2013 regarding the installation of a new shopfront, awning and roller shutter at 42-43 Haven Green. Since the last reporting period the work required to comply with the Notice has started. TfL continues to monitor the matter.
- 5.35 The second outstanding notice (received on 25 February 2014) was an Enforcement Notice from London Borough of Haringey relating to an unauthorised front extension to units on 231-243 High Road and 249a High Road Tottenham. The tenant failed to remove the extension by 31 July 2014 as required by the Notice. TfL wrote to the tenant to remind them of their lease obligations and the risk of prosecution by the London Borough of Haringey. The tenant lodged an appeal with the Planning Inspectorate. During this period, the Enforcement Notice remains stayed while a newly appointed property management company prepares proposals for the frontages of the properties and all the adjacent properties. TfL is awaiting an update from the Enforcement Officer and continues to monitor the matter.
- 5.36 The third outstanding notice (received in August 2015) was from Westminster City Council for removal of an unauthorised temporary electrical cabinet at Terminus Place. Westminster City Council granted TfL temporary permission until 30 June 2016 which was extended to 30 August 2016 to allow for the removal of the cabinet. Since the end of the reporting period the cabinet has been removed.
- 5.37 The fourth outstanding notice (received in March 2016) from the London Borough of Camden was in relation to Godstone Road, Purley in respect of advertising hoarding installed on TfL land without consent. The advertising hoarding was removed on 2 October 2016. The matter is now closed.

- 5.38 Planning reported five new Enforcement Notices received. The first new notice (received in April 2016) from London Borough of Tower Hamlets relates to the reinstallation of an approved shopfront and removal of unauthorised advertisements at 303 Whitechapel Road. The tenant has complied with the notice and the matter is now closed.
- 5.39 The second new notice (received on 23 May 2016) from the London Borough of Brent in relation to a blue painted shop frontage and signs installed without consent at Kilburn Underground station. TfL has contacted the tenant to remind them of their lease obligations and is monitoring the situation.
- 5.40 The third new notice (received on 1 June 2016) from London Borough of Camden was for the removal of an oversized advertising board displayed over scaffolding in Pentonville Road. The advertising board has been replaced with the permitted size and displayed correctly. The matter is now closed.
- 5.41 The fourth new notice (received on 22 July 2016) from London Borough of Lambeth, relates to the unauthorised use of a site and use of roller shutters at 20A Atlantic Road and Electric Road. The tenancy has been terminated. The roller shutters have not been removed by the former tenant. TfL continues to monitor the situation.
- 5.42 The fifth new notice (received on 30 September 2016) from London Borough of Tower Hamlets, relates to a development at Shadwell station which it is claimed does not meet a requirement in the planning permission. Discussions are ongoing with the developer and TfL is monitoring the situation.



Alleged Breaches of Law by a Local Authority/Other External Agency

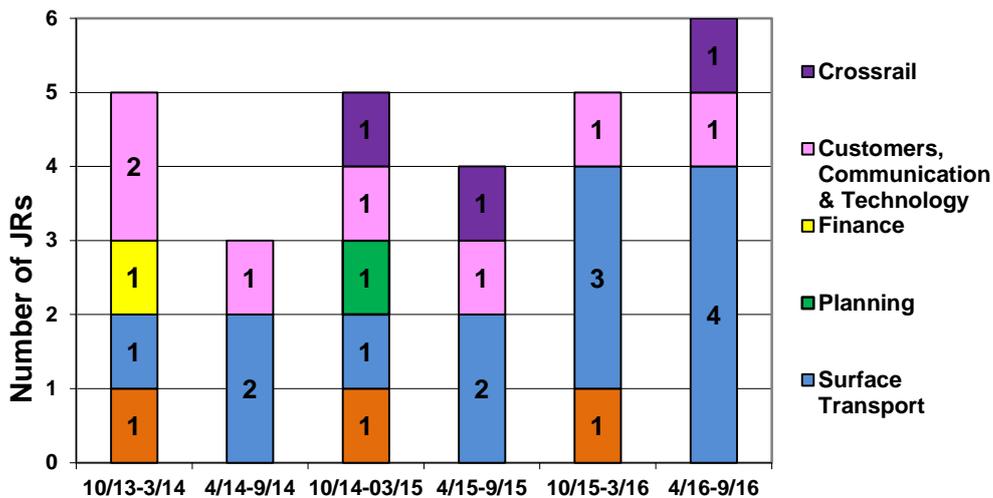
Decisions Subject to a Judicial Review

- 5.43 Surface Transport previously reported that Eventech Limited (a subsidiary of Addison Lee) was granted permission to bring a judicial review against the London Borough of Camden's Parking Adjudicator's decision not to allow Private Hire Vehicles (PHV) the same rights as Hackney licensed vehicles to use bus lanes. In April 2012, TfL successfully obtained an injunction preventing Addison Lee from causing, encouraging or assisting PHV drivers to use bus lanes marked for use by taxis. The Court also declared the indemnity Addison Lee had offered to drivers in respect of bus lane fines and liabilities to be void and unenforceable. The hearing took place on 19-21 June 2012 and the application was refused on all grounds and Eventech Limited was ordered to pay TfL's costs of defending the claim.
- 5.44 Eventech Limited then made an application for permission to appeal the decision and this was granted on 6 December 2012. The Court of Appeal hearing took place on 23 and 24 May 2013. On 29 September 2013 the Court of Appeal issued an Order referring the State aid questions raised to the European Court of Justice (ECJ). The appeal was adjourned pending the outcome of the ECJ hearing which was held on 3 July 2014. On 24 September 2014, the Advocate General, who represents the EU's interests, issued its opinion to the ECJ. The Opinion concluded that if TfL could show that black cabs and PHVs are not legally and factually comparable on grounds of safety and efficiency (which the Advocate General suggested may well be the case), no question of State aid would arise by allowing taxis but not PHVs to use the bus lanes during certain hours of the day.
- 5.45 On 14 January 2015, the ECJ gave its judgment on the State aid issues. The ECJ's decision concluded that making bus lanes available to taxis and not PHVs in order to establish a safe and efficient transport system does not appear of itself to amount to State aid. The judgment also states that the policy may conceivably affect State trade but this finding alone would not affect the conclusion overall that the policy does not appear to the ECJ to give rise to State aid.
- 5.46 The Court of Appeal was to determine the State aid issue (to take into account the ECJ's ruling) and whether the policy breached freedom of movement of services and the principle of equal treatment. However, since the last report, Eventech's appeal proceedings were stayed to allow the parties to mediate with a view to the claim being withdrawn.
- 5.47 Surface Transport reported three new judicial review applications. The first was an application to bring a judicial review of a decision made by the Adjudicator at the Road User Charging Appeals Tribunal to reject a claimant's appeal against a Penalty Charge Notice issued by TfL for non-payment of a Congestion Charge. The application was refused on the basis that it was without merit and the claimant was ordered to pay TfL's costs.
- 5.48 The second application to bring a judicial review was made by Uber London Limited. Uber and three private hire drivers sought permission for a judicial review of changes to private hire regulations including the telephone requirement (for which it also sought an injunction) as well as requirements relating to English language skills, insurance and operating model changes. A permission hearing took place on 1 September 2016 and permission was granted on restricted grounds. The injunction application was also granted pending the outcome of the substantive hearing. Uber and two of the drivers appealed to the Court of Appeal

and on 20 October 2016 the Court of Appeal granted permission for all grounds to be considered. Since the end of the reporting period the substantive hearing has been fixed for 28 February 2017 to 2 March 2017.

- 5.49 In June 2016 Guy's & St Thomas' NHS Foundation Trust issued judicial review proceedings challenging TfL's decision to include Bus Stop Bypasses as part of road layout changes at Westminster Bridge South. Permission was granted by the Court and a hearing was fixed for 25/26 October but this was adjourned to allow the parties to explore whether a design can be found which is acceptable to everyone.
- 5.50 Customers, Communication and Technology previously reported a judicial review application arising out of a decision (in April 2012) not to allow an Anglican Mainstream/Core Issues Trust advert on London's buses. The claim was initially issued against the Mayor but TfL was substituted as the Defendant. The hearing took place on 28 February and 1 March 2013. On 22 March 2013 the claim was dismissed on all grounds and the Judge held that displaying the advertisement would have been in breach of TfL's duties under the Equality Act 2010. The Claimant was also ordered to pay TfL's costs.
- 5.51 Permission to appeal to the Court of Appeal was granted and the appeal hearing took place on 9 and 10 December 2013. On 27 January 2014 the Court of Appeal decided that while it would not have been a breach of the Equality Act to run the advert, the decision not to run the advert was justifiable in terms of the Human Rights Act and European Convention provisions on freedom of expression and freedom of religion.
- 5.52 The Court of Appeal awarded TfL 75 per cent of its costs for both the first hearing and the Court of Appeal hearing.
- 5.53 The Mayor was added as second Defendant and a further hearing took place on 30 June and 1 July 2014. On 30 July 2014, the Judge found that it was TfL rather than the Mayor which took the decision, and while the Mayor had strongly expressed his opinion on the decision, his motivation in doing so was not electoral and not improper.
- 5.54 The Claimant applied for leave from the Court of Appeal to appeal the decision, which was refused at a hearing on 10 June 2015. Payment of TfL's costs has now been agreed with the Claimant and the matter is now resolved.
- 5.55 In 8 December 2015, Crossrail reported a judicial review application arising out of its decision not to negotiate exclusively with a consortium for the right to develop above the western ticket hall at Tottenham Court Road. A hearing took place on 3 March 2015 at which an application for leave to appeal was refused and the consortium was ordered to pay Crossrail's costs. The consortium has now appealed that decision which will be heard in the Court of Appeal in April 2017.

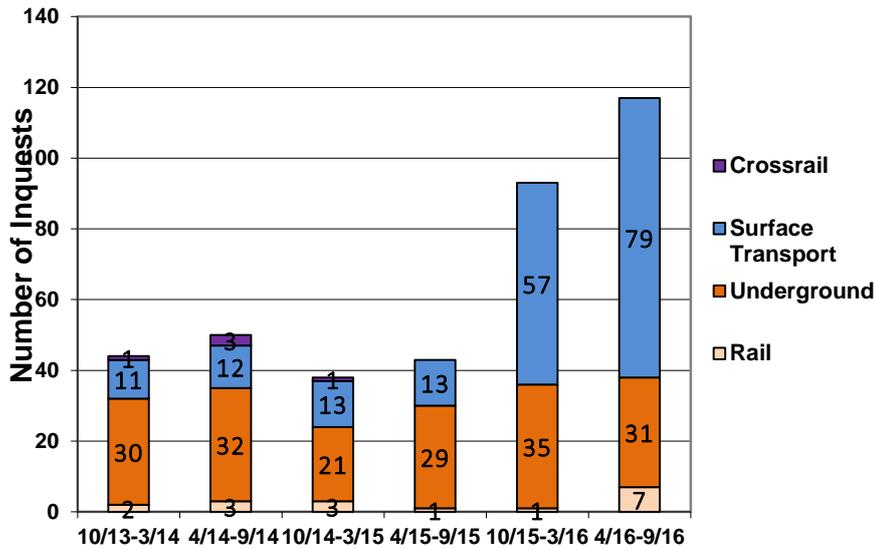
Judicial Reviews



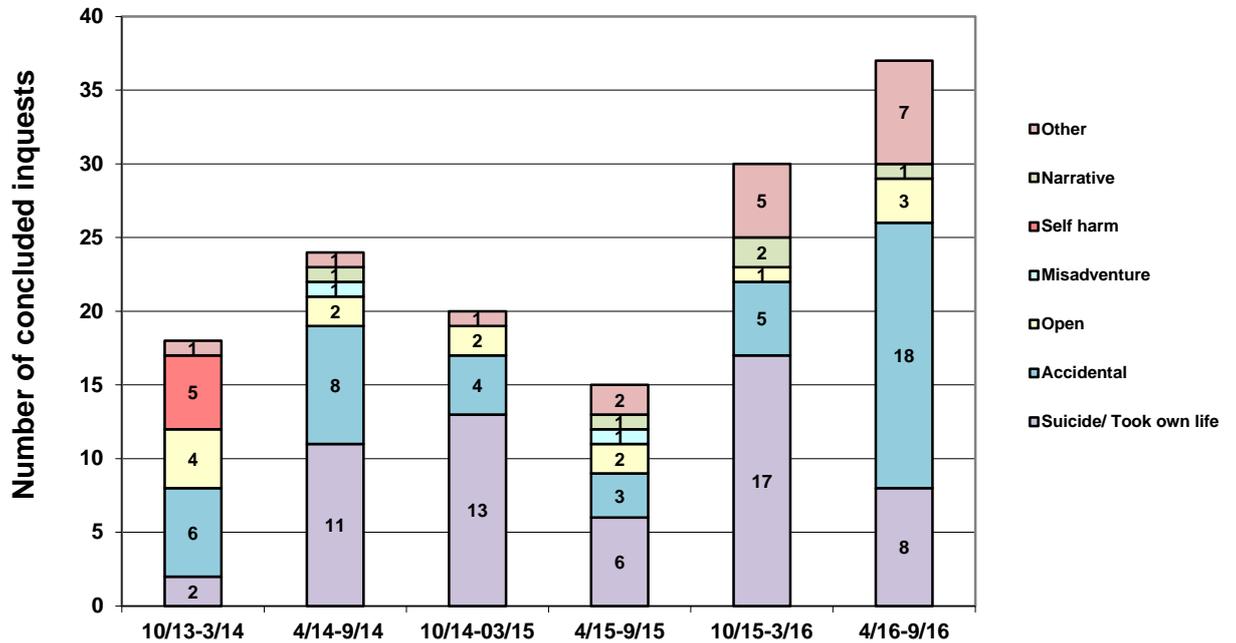
Inquests

- 5.56 London Underground has been involved in 31 inquests, 14 have been carried forward from the previous report. Since the end of the last reporting period, four of the 14 inquests carried forward were identified as fatalities that occurred on the London Rail network and will be reported as part of London Rail inquests figures from this reporting period onwards. 21 new London Underground inquests are included in this report for the first time.
- 5.57 Of the 10 inquests carried forward from the previous report, five were suicides, one an accident, two open verdicts and two are awaited. Of the 21 new inquests reported, one was suicide and 20 are awaited.
- 5.58 London Rail reported four outstanding inquests and three new inquests which are included in this report for the first time. Of the four outstanding inquests, one was an open verdict, one a suicide and two are awaited. Of the three new inquests, one was an accident and two are awaited.
- 5.59 Surface Transport reported 48 outstanding inquests from the last report and 31 new inquests included in this report for the first time.
- 5.60 Of the 48 outstanding inquests, there was one narrative conclusion, 15 road traffic collisions, 21 inquests adjourned pending the outcome of criminal proceedings or police investigations, one accident, two with status unknown, one involving criminal proceedings resulting in no inquest hearing and two fatalities resulting from medical or natural causes. Since the last report we have established that five of the inquests included in this figure were reported in error.
- 5.61 Of the 31 newly-reported matters, 29 are awaited, one was a road traffic collision and one relates to criminal proceedings resulting in no inquest hearing.

Inquests



Inquest Findings

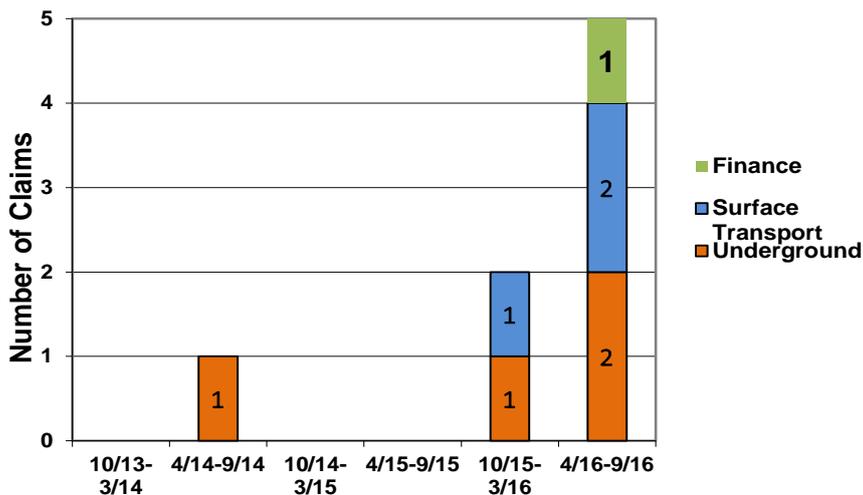


Commercial / Contract Claims Brought by or Against TfL in Excess of £100,000 (Not Including Personal Injury Claims)

- 5.62 In the previous report, Surface Transport reported one claim from a contractor under the London Highways Alliance Contract in relation to restrictions on working on the Transport for London Road Network. No proceedings have yet been issued and nothing further has been heard since August 2016.

- 5.63 In the previous report, London Underground reported a claim brought by Thorntask Limited for allegedly outstanding amounts under four works contracts across the London Underground network. London Underground filed a counterclaim for commissions paid by Thorntask to two former London Underground employees. We obtained a court order striking out the claim and obtained judgment in London Underground's favour for £631,000 in the counterclaim. Following Thorntask's failure to satisfy the judgment debt, since the end of the reporting period, the court ordered that Thorntask be wound up and the Official Receiver was appointed as liquidator upon confidential settlement terms.
- 5.64 In May 2016, MetSystems Limited commenced High Court proceedings against LUL Nominee BCV Limited and LUL Nominee SSL Limited for sums it alleges it is owed and the return of prototype equipment (or payment of equivalent value) together with interest and costs. In June 2016 the proceedings were stayed and the matter has been settled.
- 5.65 On 9 September 2016 the TfL Trustee Company Limited, TfL's pension trustee subsidiary, has issued proceedings against HMRC for overpaid VAT on fund management services. A stay of the proceedings has been agreed, pending the outcome of two test cases which are currently being considered by the courts.

Commercial/ Contract Claims

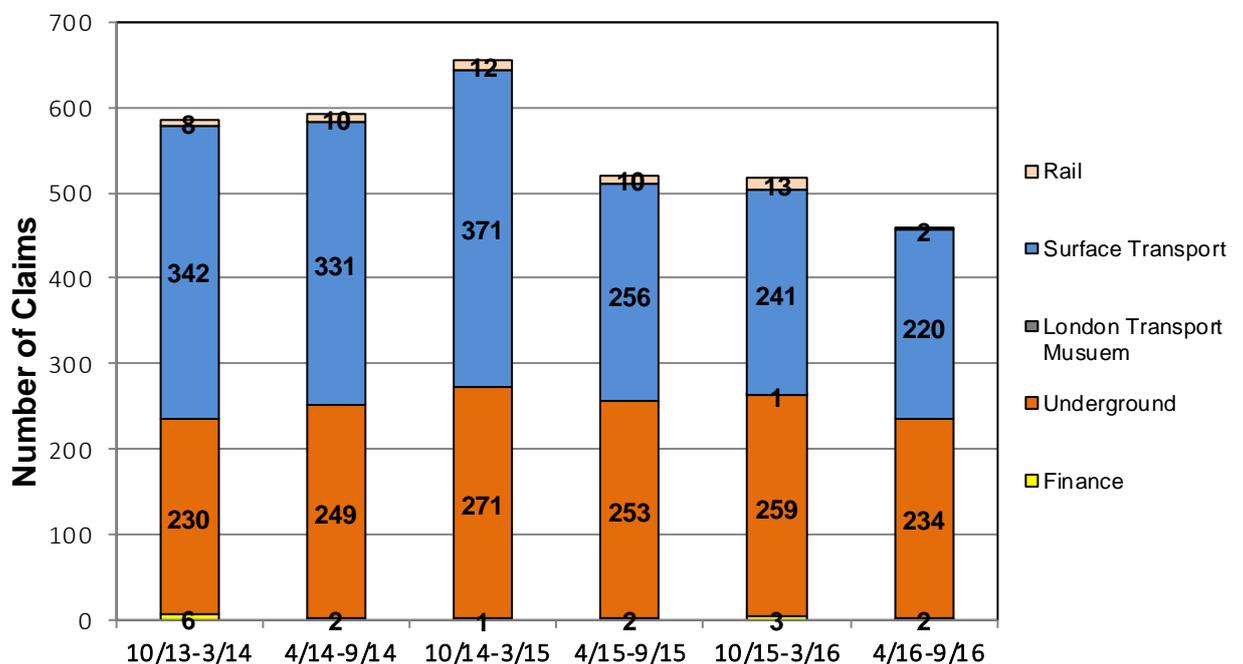


Personal Injury Claims

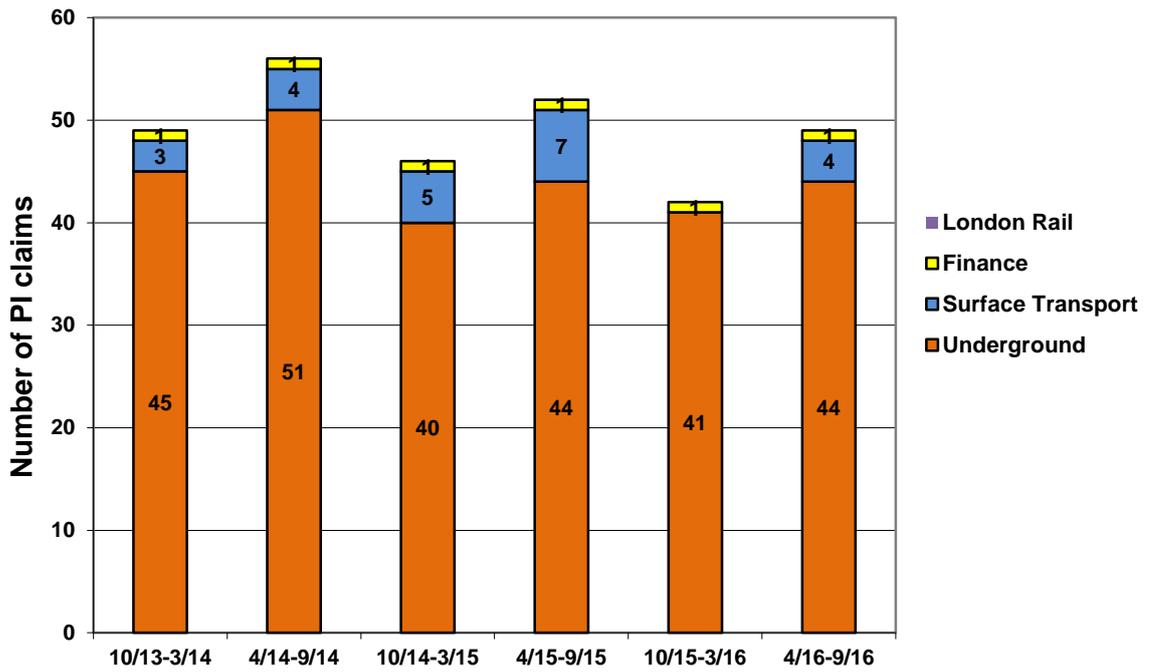
- 5.66 London Underground has been the subject of 234 claims for personal injury that were closed during the period of this report, of which 44 claims were employers' liability claims by staff and 190 claims were for public liability by customers/members of the public.
- 5.67 Of the 190 claims for public liability, 142 were closed without payment and 48 were settled.
- 5.68 Of the 44 claims for employers' liability, eight were closed without payment and 36 were settled.

- 5.69 London Rail has been the subject of two claims for personal injury that were closed during the period of this report. Both claims were for public liability and were closed without payment.
- 5.70 Surface Transport has been the subject of 220 claims for personal injury that were closed during the period of this report, of which four claims were for employers' liability and 216 claims were for public liability.
- 5.71 Of the 216 claims for public liability, 154 were closed without payment and 62 were settled.
- 5.72 Of the four claims for employers' liability, three were closed without payment and one was settled.
- 5.73 Finance has been subject to two claims for personal injury that were closed during the period of this report, of which one claim was for employers' liability and one claim for public liability. Both claims were closed without payment.
- 5.74 Out of the 458 personal injury claims closed by TfL during this period, 311 were closed without payment and 147 were settled. There was a decrease of 59 personal injury claims closed for this reporting period compared with the 517 claims closed and reported in the last reporting period (1 October 2015 – 31 March 2016).

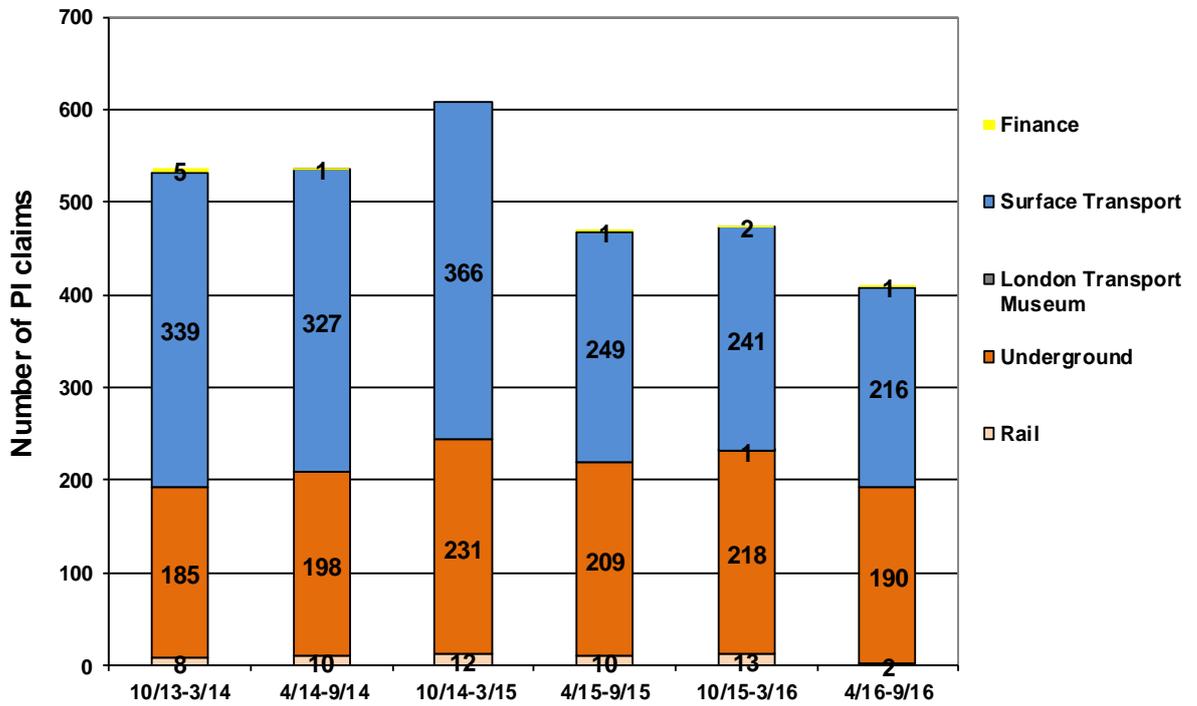
Personal Injury Claims Concluded in the Reporting Period



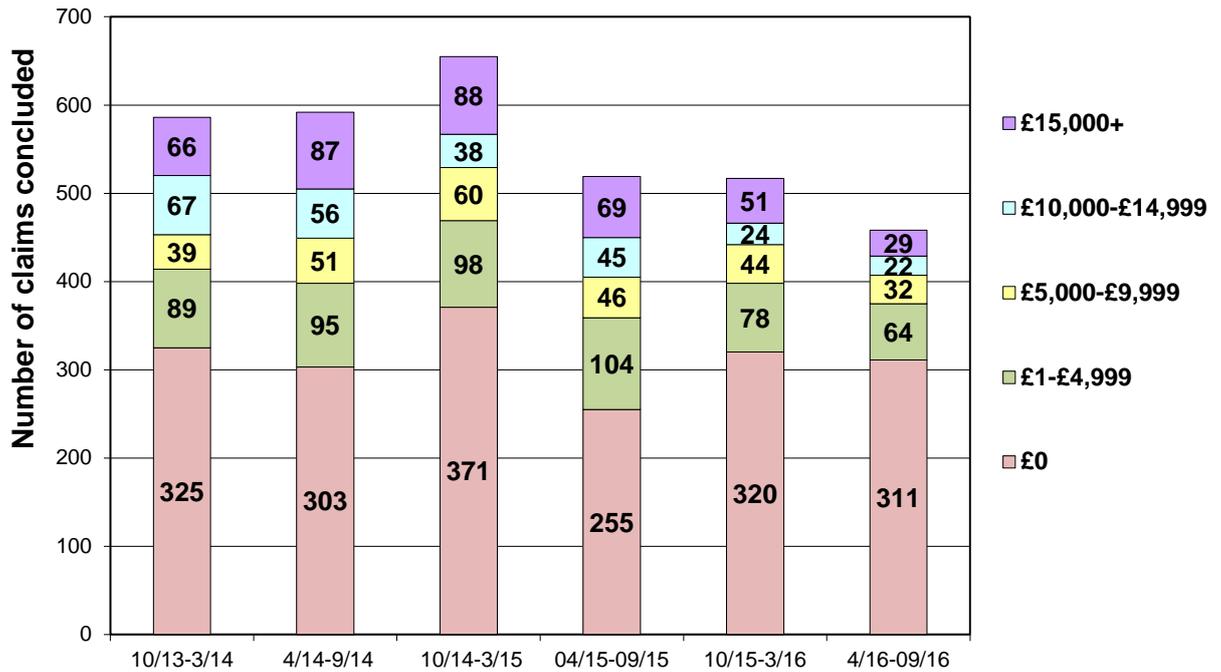
Personal Injury Claims – Concluded Employers' Liability (Staff)



Personal Injury Claims – Concluded Public Liability (Customers)



Personal Injury Claims – Concluded Cases



Employment Tribunal (ET) Proceedings

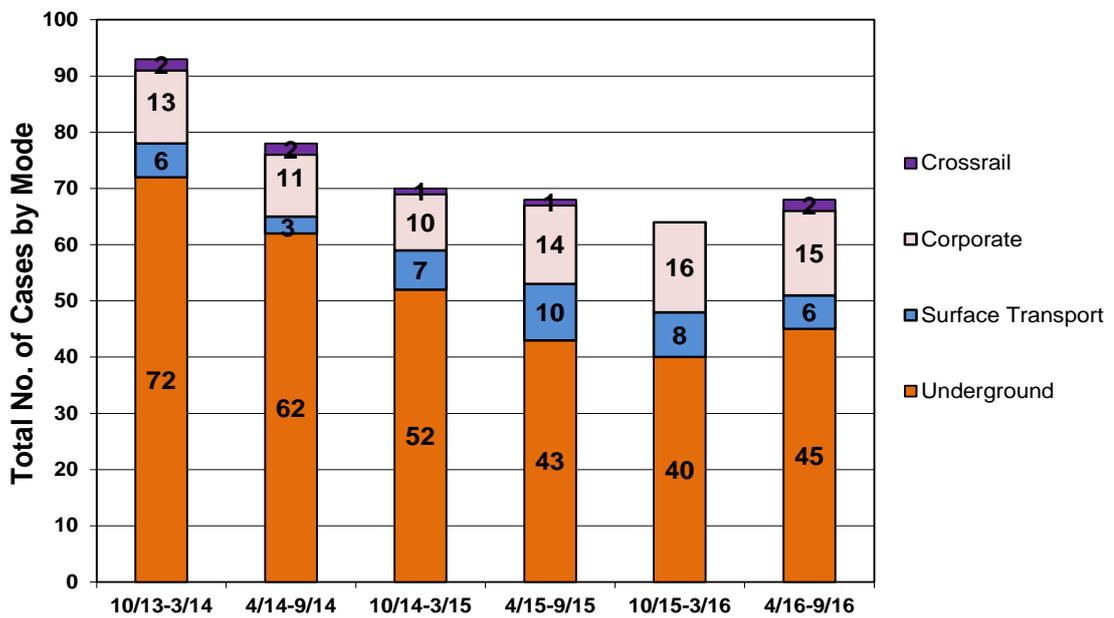
- 5.75 TfL continues to take a proactive and robust approach to managing ET cases, coupled with an extensive training programme for managers on the latest developments in the law and best practice so as to avoid employment disputes as far as possible.
- 5.76 The ACAS early conciliation process requires employees wishing to bring a claim in the Employment Tribunal to attempt conciliation via ACAS before a claim is issued. In TfL's experience the process is effective in that it has enabled a number of claims to be resolved without resorting to litigation which has saved time and money for TfL. In addition, early conciliation has enabled better identification and focus of the key issues in any claim. Although early conciliation can extend the overall length of the case management process, we consider that the benefits of early conciliation outweigh this.
- 5.77 London Underground has been the subject of 45 ET claims during the period of this report. Of these, 23 were for unfair dismissal, four were for sex discrimination, two were for trade union detriment, six were for disability discrimination, three were for race discrimination, one was for breach of the Agency Workers Regulations, one was for public interest disclosure, two were for unlawful deductions from wages, one was for refusing to grant an employee the trade union representative for their choice and two were for discrimination on grounds of religion or belief.
- 5.78 Surface Transport has been the subject of six ET claims during the period. Of these, five were for unfair dismissal and one was for constructive dismissal.
- 5.79 Professional Services have been the subject of 15 ET claims during the period. Of these, four were for unfair dismissal, eight were for disability discrimination, two were for race discrimination and one was for unlawful deductions of wages.

5.80 Crossrail have been the subject of 2 ET claims during the period. One was for unfair dismissal and one was for disability discrimination.

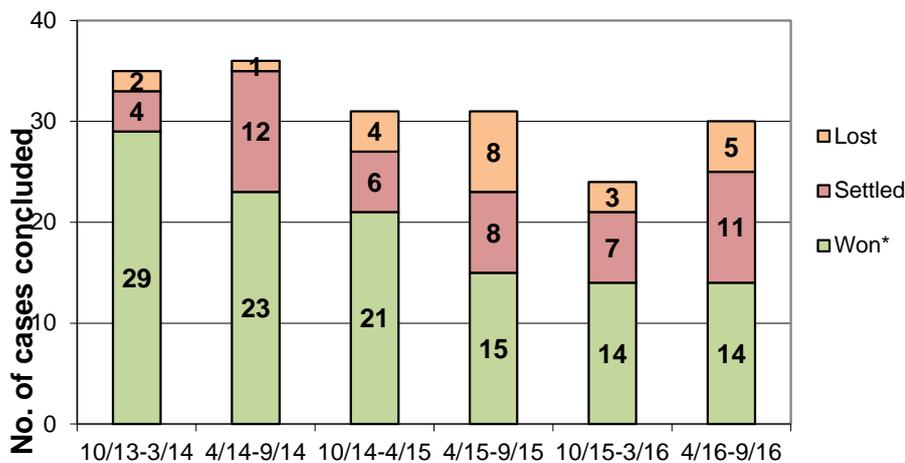
5.81 Of a total of 68 ET claims brought during the period, 38 cases are ongoing and 30 were concluded during the period. Of the 30 ET cases concluded during this period, eight were won, four were withdrawn, two were struck out, 11 settled and five were lost. Of the five cases lost, two were only partially lost and two were lost and then settled.

5.82 There was an increase of four ET claims during this reporting period compared with the 64 claims reported in the last reporting period (1 October 2015 – 31 March 2016).

Total number of Claims



Employment Tribunal Cases Concluded

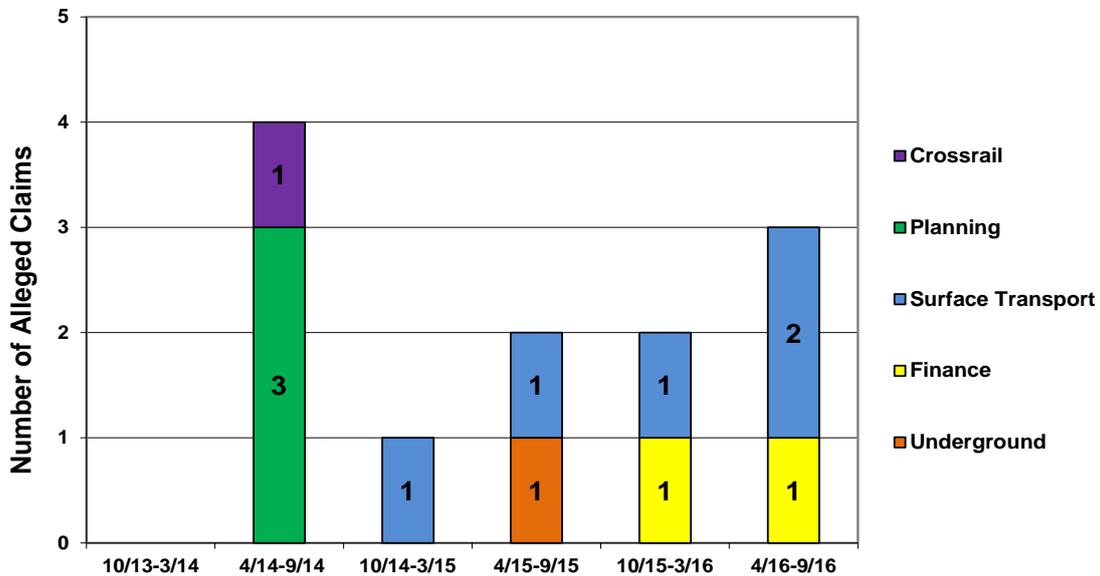


*Claims won include withdrawn and struck out claims

Civil Debt in Excess of £5,000

- 5.83 Surface Transport previously reported a claim brought against TfL by the London Borough of Enfield in March 2014 for the recovery of unpaid invoices relating to monitoring CCTV cameras. Discussions are still ongoing between the parties.
- 5.84 Surface Transport reported a new claim brought against TfL by the London Borough of Tower Hamlets for non-payment of business rates in error. The error has been resolved and no further action was required.
- 5.85 Finance previously reported a claim received from the London Borough of Hackney for non-payment of non-Domestic Rates since 2013 relating to a property at 324 Railway Arch, E8 4EA. TfL had not received invoices for the payment of the non-Domestic Rates due to use of an incorrect address on the account. Some of the invoices were paid in January 2016. TfL awaits further detail on the remaining invoices.

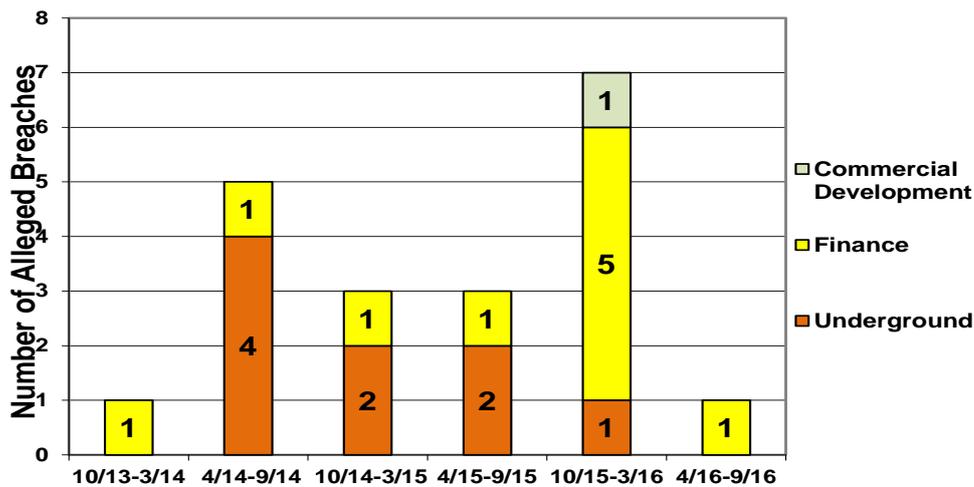
Unpaid Debt



Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998

- 5.86 Finance reported one new alleged breach concerning the opportunity to bid for the Dashboard reporting service. The matter has been resolved.

Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998



Other Known Breaches

5.87 No other alleged breaches were identified.

Other Material Compliance Issues

5.88 Finance previously reported a dispute in relation to highways land that was vested in various London Boroughs which TfL maintain and was transferred to TfL on 3 July 2000 pursuant to the GLA Roads and Side Roads (Transfer of Property) Order 2000. Of the 32 London boroughs, agreement has been reached for land transfers with 29 boroughs. A court hearing is listed in the Court of Appeal for 1 March 2017 in relation to the remaining two boroughs.

Management of Compliance Issues

5.89 TfL's legal and compliance risks are managed as part of TfL's overarching strategic risk management framework. A range of operational and assurance processes are in place to mitigate these risks at all levels in the organisation.

5.90 These safeguards are supported by the provision of advice on and training in relevant legal and corporate governance issues, which are tailored to the needs of TfL's business units.

5.91 The legal and compliance framework is the subject of continuous review and improvement. Initiatives to address compliance in Information Governance and across TfL have included:

- (a) advice and direction to all areas of TfL (eg on the use of customer and employee data, requests for the disclosure of information, management of information), working with business areas to develop and review processes, systems and supplier relationships as necessary;
- (b) promotion of e-learning courses on Freedom of Information, Data Protection and records management, including mobile versions available for staff without computer access;

- (c) the promotion through the TfL Management System of Information Governance policies, instructions and guidance;
- (d) the promotion and maintenance of a programme of pro-active publication of information, to improve transparency and simplify the handling of FOI requests;
- (e) ongoing bespoke training to the business and HR on a range of employment issues including employment law updates, compliance with TUPE, reasonable adjustments requirements and effective case management and providing guidance and best practice learned from Employment Tribunal cases;
- (f) training on a range of legal issues including intellectual property, property law matters, contract interpretation, procurement law updates, preparing specifications and NEC3 compensation events;
- (g) the delivery of bespoke training in connection with the new Utilities Contracts Regulations and preparation of robust documentation to ensure compliance. A 'train the trainer' approach continues to ensure business areas retain a good level of knowledge with the teams;
- (h) support of compliance with the Modern Slavery Act 2015. TfL's annual statement was approved by the Board on 19 July 2016 and includes the measures taken to ensure modern day slavery does not form part of its supply chain;
- (i) continued updates to the standing TfL PQQ template and other documents in the TfL Commercial Toolkit to capture ongoing regulatory changes;
- (j) the ongoing issue of the Commercial Law Bulletin to the Commercial Teams to support the dissemination of important messages relating to regulatory; and legal issues.
- (k) raising awareness of TfL's Knowledge Portal to record, share and search for lessons learned;
- (l) developing an assurance process to help minimise the scope for errors in procurement and commercial processes and documents to support legal compliance; and
- (m) updating TfL Standing Orders aimed at streamlining governance while ensuring robust controls.

6 Conclusions

- 6.1 The Legal Compliance Report for the period 1 April 2016 to 30 September 2016 sets out the legal and compliance matters of which TfL senior management is aware. There are no material breaches of the law which would affect TfL's continued operations.
- 6.2 Reported matters continue to be broadly in line with previous reports.

List of Appendices to this report:

None

List of Background Papers:

None

Contact Officer: Howard Carter, General Counsel
Number: 020 3054 7832
Email: HowardCarter@tfl.gov.uk