



Internal Review Procedure Requests for information access and re-use

Description: Procedure for the internal review of information access/re-use requests submitted to TfL or its subsidiaries, in accordance with the following pieces of legislation:

- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- INSPIRE Regulations 2009
- Re-Use of Public Sector Information Regulations 2015

Author: Information Governance

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1. Purpose

This procedure is primarily intended to outline the mechanism through which complaints about the handling of Freedom of Information Requests; requests for access to Environmental Information; compliance with the INSPIRE Regulations and Information Re-use Requests are to be investigated and addressed. Complaints about the processing of personal data will be considered under the Complaints Procedure – Privacy and Data Protection

2. Definitions

Information Access Request Any request for information covered by the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

Information Commissioner The regulator appointed by Parliament who enforces the provisions of information access and re-use legislation

Information Access Stakeholder A TfL employee acting as the local subject matter expert for information compliance issues affecting their area of the business (a list of these individuals is maintained by Information Governance)

<i>Information Governance</i>	A business unit within TfL General Counsel, responsible for TfL's compliance with information governance legislation (including the Freedom of information Act 2000, the Environmental Information Regulations 2004)
<i>Information Re-use Request</i>	Any request to re-use information produced by TfL (covered by the Re-use of Public Sector Information Regulations 2015)
<i>INSPIRE Regulations</i>	The INSPIRE Regulations 2009
<i>UK Location Coordination Unit (LCU)</i>	The LCU is responsible for coordinating, and monitoring the delivery of INSPIRE in the UK.
<i>Review Panel</i>	The panel of one or more individuals who will assess the merits of a complaint covered by this Procedure
<i>TfL</i>	Transport for London and its wholly owned subsidiaries

3. Organisational scope

Compliance with this procedure is a requirement for all business units and employees of TfL. Failure to comply with this procedure or to implement any consequential changes to TfL policy or procedure, may result in TfL (or individual employees), operating in breach of the law and being made subject to financial or other serious penalties imposed by the Information Commissioner.

4. Context

This procedure applies to all types of information access/re-use requests, as outlined below:

4.1 General requests for access to information

4.1.1 The 'Code of Practice on the Discharge of Public Authorities' Functions issued under Part I of the Freedom of Information Act 2000', obliges TfL to have in place a complaints process to ensure that applicants can request an internal review of the way in which their information access request has been handled. It is therefore essential that TfL adheres to

this internal review procedure, and that TfL employees involved in processing such requests are aware of its contents.

4.1.2 Section 17(7)(a) of the Freedom of Information Act states that the existence of such an internal review procedure must be communicated to any individual whose information access request has been unsuccessful (as a matter of policy TfL has decided to communicate this information to any individual who has submitted an information access request). TfL must also explain how the individual should go about submitting their complaint.

4.1.3 It is also important to note that under section 50 of the Act any person may apply to the Information Commissioner for a decision as to whether a request for information has not been dealt with in accordance with the requirements of the Act. Subsection (2) goes on to state that the Commissioner will only issue a decision if the complainant has already exhausted the complaints procedure provided by the public authority in accordance with its obligations under the section 45 Code of Practice.

4.2 Requests for access to environmental information

4.2.1 The 'Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004' (issued under Regulation 16 of the Regulations), also requires public authorities such as TfL, have in place a complaints process to ensure that applicants can request an internal review of the way in which an information access request relating to environmental information has been dealt with. It is therefore essential that TfL adheres to this internal review procedure, and that TfL employees involved in processing such requests are aware of its contents.

4.2.2 The Code of Practice also states that the existence of such an internal review procedure must be communicated to any individual whose information access request has been unsuccessful (as a matter of policy TfL has decided to communicate this information to any individual who has submitted an information access request). TfL must also explain how the individual should go about submitting their complaint.

4.2.3 Again, a complainant must have exhausted the internal review process provided by TfL before they are able to take their complaint to the Information Commissioner's Office.

4.3 Compliance with the INSPIRE Regulations

4.3.1 Complaints about a public authorities' performance of its functions under the INSPIRE Regulations 2009 may include complaints about:

- the application of INSPIRE Technical Standards

- charging, or
- the way a public authority has restricted access to data or services

4.3.2 Complaints regarding compliance with the INSPIRE Regulations may be made by any individual or organisation (including other public authorities) accessing or using data published under the INSPIRE Regulations.

4.3.3 Regulation 13(1) of the INSPIRE Regulations states that a public authority must have an internal complaints procedure for dealing with a complaint relating to the performance of its functions under these Regulations.

4.4 Requests to re-use information created by TfL

4.4.1 Regulation 17 of the Re-use of Public Sector Information Regulations 2015 requires public authorities such as TfL, to have in place a complaints process to ensure that applicants can request an internal review of the way in which their information re-use request has been dealt with. It is therefore essential that TfL adheres to this internal review procedure, and that TfL employees involved in processing such requests are aware of its contents.

4.4.2 The 'Guidance on the Implementation of the Re-use of Public Sector Information Regulations 2015' (issued by The National Archives), states that the existence of such an internal review procedure must be communicated to any individual whose information re-use request has been unsuccessful (as a matter of policy TfL has decided to communicate this information to any individual who has submitted an information re-use request). TfL must also explain how the individual should go about submitting their complaint.

4.4.3 Where an individual has exhausted this internal review procedure in respect of a complaint about their Re-use request (or where TfL has failed to deal with such a complaint within a reasonable time), they may refer their complaint to the Information Commissioner's Office.

5. Procedure

5.1 Individuals who have submitted information access requests may be unhappy with the way in which TfL has handled their request if, for example:

- their application was not dealt with within the statutory 20 working days
- they consider that they did not receive all of the information requested

- information has not been published in accordance with statutory obligations
- they feel that exemptions have been wrongly applied to the information
- they feel that a fee has been wrongly charged for the information

It is important to be aware that the internal review process is an opportunity to consider an information access request completely afresh. The review process may also be a trigger for the involvement of Information Governance, Press Office, or the Commissioner's Office, for the first time.

- 5.2 Any specific or implicit complaint (ie any written communication, including one transmitted electronically, expressing some kind of dissatisfaction with TfL's response to an information access/re-use request) from an individual who has previously submitted an information access/re-use request must immediately be forwarded to Information Governance using the following contact details:

*Information Access Team
Information Governance
Windsor House
42-50 Victoria Street
London
SW1H 0TL*

Email: foi@tfl.gov.uk

- 5.3 What happens once a complaint has been received by Information Governance?

- 5.3.1 In all cases, complaints will be acknowledged and the complainant informed of TfL's target date for providing a response to their complaint. If it becomes apparent that the provision of a response will take longer than the target date (for example because of the complexity of the particular case), Information Governance will inform the applicant and explain the reason for the delay.

- 5.3.2 Information Governance will request copies of all material (documents, emails, etc) connected with the processing of the request. They will also request copies of any information held by TfL which relates to the original request, whether or not it was disclosed to the complainant. If necessary, Information Governance will contact individual employees involved in the processing of the request, to seek clarification on the facts surrounding the handling of the request and any decisions made in relation to the way it was handled by the business.

5.3.3 All TfL employees are expected to cooperate fully with Information Governance's investigation of a complaint under this Procedure and to provide full access to all relevant information without delay.

5.3.4 Once all of the relevant background information has been collected, Information Governance will prepare a case folder and, if requested, a written summary of the facts surrounding the handling of the request, for the Review Panel. Information Governance will also attach to this summary the original requests and any other relevant documents (together with a copy of any information held by TfL which forms the focus of the complainant's request).

5.4 Who will conduct the internal review?

5.4.1 Internal reviews will be conducted by a panel of one or more individuals who were not involved in the processing of the information access or re-use request which forms the focus of the complaint.

5.4.2 Review Panel members will be drawn from one or more of the following groups:

- TfL General Counsel
- Information Access Stakeholders from within TfL business units

Panel members must not have previously been directly involved in the handling of the complaint or the original request to which it relates.

5.5 How is an internal review conducted?

5.5.1 Internal reviews are intended not to be overly bureaucratic and will be conducted as a fair and impartial means of reviewing decisions made during the original consideration of whether to release/permit the re-use of, TfL information, or otherwise meet the requirements of the legislation referred to in Section 4 of this guidance.

5.5.2 The Review Panel will review the information prepared for them by Information Governance. Where appropriate the Panel will consider any information released against the information requested, to identify and analyse differences between the two. If necessary, the Panel may also choose to discuss the handling of the request with the employees who were originally involved in dealing with it, in order to build a full picture as to how decisions were made.

5.5.3 The Panel will be supported by a facilitator from Information Governance who will record their discussions/decision, liaise with the complainant and ensure that the Panel's recommendations are subsequently actioned. An accurate record of the review process is

essential given the possibility of a subsequent investigation by the Information Commissioner.

5.6 Timescales for the internal review process

5.6.1 Internal reviews have to be completed within a reasonable timescale. In accordance with statutory requirements and best practice TfL has adopted the following targets for the conduct of an internal review and the provision of a final response to the complainant:

- Written acknowledgment of a complaint should be sent within 5 working days of receipt and include a target date for the completion of the internal review process
- Routine complaints should be dealt with (and a final response sent to the complainant) within 20 working days of receipt
- Complex complaints requiring an extension to this deadline (for example because of a need to gather a large amount of supporting information) should be dealt with (and a final response sent to the complainant) within a maximum of 40 working days of receipt.

5.6.2 If it becomes clear at any stage of the internal review that TfL will have to extend the deadline set in the original acknowledgment, Information Governance will communicate this to the complainant in writing and set a revised deadline by which TfL will respond. Every effort must then be made by TfL to ensure that this deadline is met.

5.7 Possible outcomes of an internal review

5.7.1 An internal review can have four possible outcomes:

- The original decision is reversed
- The original decision is upheld
- The original decision is partially upheld
- A practice recommendation is issued

In addition, the Review Panel will seek to identify problems or failings with the processes or procedures within any business unit involved in responding to the original request.

5.7.2 Where the original decision is reversed, in full or in part, the applicant must be informed, and told when they can expect the information originally requested to be provided to them (or if applicable, provided with details of a license and associated fee for the requested re-use of the information).

5.7.3 Where the original decision (to withhold all or part of the information requested or refuse permission for re-use) is upheld, or the Panel does not find any deficiencies in the general handling of the information

access request, the applicant must be told of their decision and made aware of their further right of appeal to the Information Commissioner's Office (full contact details will also need to be provided to the complainant).

5.7.4 If an Internal Review considers a complaint about the application of INSPIRE Technical Standards the response must be copied to the LCU with a summary of the complaint and any actions that have resulted from it.

5.7.5 After the internal review is complete, Information Governance will discuss the Review Panel's conclusions with the business unit(s) concerned and ensure that any internal processes which may need to be updated are fully reviewed. This situation may arise regardless of whether the original decision is reversed or upheld. Information Governance will also work with managers within the business unit to address any training needs identified during the Internal Review process or subsequent discussions.

5.8 Monitoring complaints and internal reviews

5.8.1 Records are kept of the outcome of all internal reviews. Information Governance monitors the volume and nature of complaints regarding the handling of information access requests and where necessary, will conduct detailed assessments of local request handling procedures to enable it to make recommendations for improvements and address patterns of non-compliance with relevant information access or re-use legislation.

5.8.2 In circumstances where patterns of non-compliance with relevant legislation or associated policies and procedures are identified, Internal Audit may be also be asked to conduct further, more detailed analysis of the performance of individual TfL business units.

5.9 External investigations of complaints against TfL

5.9.1 Any complaint about TfL's handling of an information access/re-use request may eventually be escalated to the Information Commissioner. In such circumstances Information Governance is responsible for liaising with the investigating authority, collating any supporting evidence and preparing TfL's formal response.

5.9.2 If TfL receives a written communication (including one transmitted electronically) connected with an information access/re-use request, from the Information Commissioner's Office it must immediately be forwarded to Information Governance using the contact details provided in paragraph 5.2 of this Procedure.

5.9.3 TfL is legally obliged to cooperate with such an investigation and all TfL employees are expected to cooperate fully with any request from Information Governance to assist in the preparation of a response and to provide full access to all relevant information.

6. Local procedures/supplementary guidance

Any advice or guidance produced by individual business areas within TfL (or by TfL's subsidiary companies), on the application of this Procedure within their area of operations, must be approved by the Head of Information Governance prior to publication.

7. Approval

This procedure was revised and approved by the Head of Information Governance on 14 September 2015.

8. Review

This procedure will be subject to review as deemed appropriate by the Head of Information Governance.

9. Procedure owner

The Head of Information Governance is the designated owner of this procedure.

10. Contact details

For advice and guidance on the contents and application of this procedure, please contact:

*Information Access Team
Information Governance
Windsor House
42-50 Victoria Street
London
SW1H 0TL*

Email: foi@tfl.gov.uk