



London Cycle Hire Scheme

Schedule 2

Common Statement of Requirements

Appendix 1 – Information Compliance Processes

Copyright on the whole and every part of this document is owned by Transport for London. No reproduction of the whole or any part of this document is to be made without the authority of Transport for London. This document is confidential to Transport for London. No part of this document or information contained in this document may be disclosed to any party without the prior consent of Transport for London.

Table of Contents

1	Data Protection Notice	3
1.1	Introduction.....	3
1.2	Data Protection Notice.....	3
2	Data Subject Request Processes	4
2.1	Introduction.....	4
2.2	Background	4
2.3	Definitions.....	4
2.4	What are ‘Subject Access Requests’?	4
2.5	Responsibilities.....	5
2.6	Systems.....	5
2.7	Processes.....	6
	Checklist.....	6
2.8	Individual Rights under sections 10, 11 or 12 of the Data Protection Act	6
2.9	Requests for Personal Data received from Third Parties.....	7
3	Information Requests Procedure	9
3.1	Background	9
3.2	Responsibilities.....	10
3.3	Systems.....	11
3.4	Processes.....	12
3.5	Reporting	12
3.6	Checklists	12

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 example only - and to provide 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 TTL'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;
- provided on request to Customers.
- Displayed on Customer Registration forms; and
- available via the internet.
- available at Terminals

1.2 Data Protection Notice

Transport for London (TfL), its subsidiaries and service providers, will use your personal information for the purposes of customer services and administration, the provision of travel related information, customer research and fraud prevention. Your personal information will be properly safeguarded and processed in accordance with the requirements of the Data Protection Act 1998.

In certain circumstances, TfL may also share your personal information with the police and other law enforcement agencies for the purposes of the prevention or detection of crime.

TfL and its subsidiaries may also contact you about our offers and promotions, please mark X here if you do not want to receive this information []

2 DATA SUBJECT REQUEST PROCESSES

2.1 Introduction

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 TTL, to assist TTL in handling 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 manner and purposes for which personal Information will be processed. Transport Trading Limited (TTL) is the data controller in relation to Personal Data processed in connection with the Scheme.

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

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 the logic involved in any automated decision-taking (where a decision significantly affecting the Data subject is made by fully automated means).

The Service Provider shall identify all Subject Access Requests (SARs) and escalate them to TTL in accordance with schedule 5: Service Level Agreement.

A SAR can be made as part of a Complaint or Enquiry. The Service Provider shall prescribe a process to recognise such requests before escalating to TTL.

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.

2.5 Responsibilities

TTL's role is to ensure:

- that the Service Provider has correctly implemented a procedure to handle the escalation of SARs to TTL;
- to respond directly to the applicant with Information regarding a SAR;
- to liaise with the Service Provider regarding the gathering of Information regarding a SAR;
- to provide Policy Guidance to the Service Provider;
- to monitor the number of SARs received;
- to liaise with other parts of TTL, the Information Commissioner and the Service Provider should there be a Complaint about a SAR; and
- to handle Complaints regarding SARs .

The Service Provider's role is:

- to implement a procedure to escalate SARs within the time limits and Service Levels stipulated by TTL;
- to cooperate with TTL in gathering any required information applicable to a SAR.
- to ensure that there is at all times a member of the Service Provider's Personnel with sufficient seniority and understanding to manage the escalation of SARs;
- to ensure that all Personnel are trained to recognise a SAR and know what they should do when one is identified; and
- to liaise with TTL on any complaints or policy issues arising in connection with SARs

2.6 Systems

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

The Service Provider shall keep an up-to-date log of all Data repositories to ensure that it can perform a complete search when requested by TTL.

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

gathering Information. The Service Provider shall agree the search parameters to be used with TTL.

2.7 Processes

The Service Provider shall train staff on how to recognise an initial SAR and how to progress the SAR to TTL. 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 Complaint, Enquiry or other communication.

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 escalate to TTL 	<ul style="list-style-type: none"> ▪ Staff training ▪
SAR received –e.g. within a complaint letter or other correspondence (request may also be received via TTL)	Escalate to TTL	<ul style="list-style-type: none"> ▪ Designated staff to escalate SARs ▪
		<ul style="list-style-type: none"> ▪
Search for information following request from TTL	<ul style="list-style-type: none"> ▪ Search, retrieve, check and if necessary print requested Information ▪ Progress Information to TTL. 	<ul style="list-style-type: none"> ▪ Automated search functionality ▪ Clear procedures for progressing Information to TTL
Record Information supplied	Record what Information was supplied to TTL. This is in case of Complaints that not all Information requested was supplied.	Ability to record what Information was supplied to TTL and to retain a copy for the period stipulated in the Data Retention Policy

2.8 Individual Rights under sections 10, 11 or 12 of the Data Protection Act

2.8.1 Section 10 – Prevention of processing causing damage or distress:

Where an individual believes that a data controller is processing Personal Data in a way that causes, or is likely to cause, substantial, unwarranted damage or substantial unwarranted distress to that individual or another individual, the individual has the right to send a notice to the data controller requiring them to stop the processing within a reasonable time. The data controller must respond to the notice within twenty-one (21) calendar days stating whether they intend to comply with such a notice, or the extent with which they intend to comply, stating the reasons.

Such a notice can be made as part of other correspondence such as a Complaint or Enquiry. The Service Provider shall prescribe a process to recognise such notices before promptly escalating to them to TTL, who will provide advice and instruction on how to respond.

2.8.2 Section 11 - Right to prevent processing for the purposes of direct marketing:

An individual is entitled to require a data controller at any time to cease, or not to begin processing their Personal Data for the purpose of direct marketing. Such a notice must be received in writing.

Such a notice can be received as part of other correspondence such a Complaint or Enquiry. The Service Provider shall prescribe a process to recognise such notices and to ensure that all are complied with in full, promptly. There are no exceptions to complying with a notice received under section 11.

2.8.3 Section 12 – Rights in relation to automated decision taking:

An individual is entitled to require a data controller to ensure that no decision which significantly affects that individual is based solely on processing by automatic means. An individual is also entitled to require the data controller to reconsider the decision on a different basis. Such a notice must be received in writing.

Such a notice can be made as part of other correspondence such a Complaint or Enquiry. The Service Provider shall prescribe a process to recognise such notices before promptly escalating to TTL, who will provide advice and instruction on how to respond.

2.9 Requests for Personal Data received from Third Parties

There may be occasions where requests for Personal Data are received from individuals or organisations other than the Data subject themselves. Examples of this might include the Police Service or other law enforcement agencies, insurance companies or banks / credit card companies.

The Service Provider shall prescribe a process to recognise such requests before promptly escalating to TTL, who will be solely responsible for responding to such requests. Under no circumstances should the Service Provider respond directly to request for Personal Data from a third party.

The Service Provider will prescribe a process for retrieving any Data in order to assist TTL with responding to a request from a Third Party.

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, and to information held on their behalf. Transport Trading Limited is a public authority. 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, TTL 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 on behalf of TTL 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 and EIR 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

TTL 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 (in the case of FOI requests) 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 Complaints;
- train staff to distinguish between requests to be handled in this way and business as usual correspondence that can be handled without escalation to TTL;

- have a designated member of staff at all times who will ensure the Service Provider's compliance with TTL'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 TTL via the agreed channel and within the required timescale;
- respond to all requests from TTL for the provision of Information required to satisfy a request within the required timescale ;
- inform TTL 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), TTL 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 Enquiry. The Service Provider shall prescribe a process to recognise such requests and escalate them to TTL.

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 TTL.

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

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

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

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. TTL will be responsible for any redaction.

The Service Provider shall supply the Information to TTL in full even if the Service Provider believes an exemption may apply. TTL will determine whether this is the case and undertake any redaction should this be required.

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 TTL;
- supplies Information requested by TTL 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 TTL 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 makes a request for information under FOIA or EIR via a Customer contact channel	<ul style="list-style-type: none"> ▪ Request is recognised as a request under FOIA or EIR (whether the person states this or not) ▪ 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 TTL at the contact point designated by TTL ▪ Any complaints relating to FOIA or EIR are escalated without delay to the designated contact at TTL ▪ Requests received are logged and reported on to TTL as required 	<ul style="list-style-type: none"> ▪ Training for staff ▪ Contact point at TTL for FOIA / EIR requests ▪ Designated member of staff to oversee the Service Provider’s compliance with TTL’s requirements in relation to FOIA and EIR ▪ Logging, tracking and reporting functionality

Trigger	Action	Requirements
<p>Requests for information under FOIA or EIRs received from TTL</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 TTL in the format requested and by the method agreed with TTL ▪ Where no Information can be found, this is reported to TTL ▪ A response to TTL 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 TTL 	<ul style="list-style-type: none"> ▪ Ability to log and track requests and report to TTL in accordance with schedule 5: Service Level Agreement ▪ Personnel to manage retrieval, checking and supply of Information