

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 July 2016

Public Authority: Transport for London
Address: Windsor House
42-50 Victoria Street
London
SW1H 0TL

Decision (including any steps ordered)

1. The complainant made a request to Transport for London (TfL) for information relating to legislation that gives powers to TfL which allows them to instruct and dictate that a taxi driver must give credit and accept credit card payments from passengers in their taxi. TfL refused to comply with the request under section 21 and 22 FOIA. It later withdrew the application of section 22 FOIA and confirmed that it wished to rely solely upon section 21 FOIA.
2. The Commissioner's decision is that the TfL has correctly applied section 21 FOIA in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 24 January 2016 the complainant requested information of the following description:

"Can you please provide a copy of the legislation that gives powers to TfL which allows them to instruct and dictate that a taxi driver must give credit and accept credit card payments from passengers in their Taxi."
5. On 15 February 2016 TfL responded. It provided the complainant with a link to the appropriate legislation and confirmed that it was reasonably accessible to him under section 21 FOIA.

6. The complainant requested an internal review on 15 February 2016. He explained that:

"I am fully aware of the C.o.F. on taxis but which legislation is their *[sic]* for TfL to tell a self employed taxi driver that he/she must accept credit cards and indeed give credit to strangers.

Would kindly provide a copy the legislation that allows TfL to dictate how a taxi driver takes payments for the fare."

7. TfL sent the outcome of its internal review on 18 March 2016. It applied the section 22 exemption to withhold the requested information as it advised that there was not currently a requirement for taxi drivers to accept payment by credit or debit card, however it would be required from 3 October 2016. Specific details in relation to the regulatory requirements of drivers and vehicles would be published on its website when available (it subsequently confirmed to the Commissioner that the London Cab Order 2016 was published on the TfL website on 19 April 2016).

Scope of the Case

8. The complainant contacted the Commissioner on 21 March 2016 to complain about the way his request for information had been handled.
9. During the course of the Commissioner's investigation, TfL explained that it considered that the internal review response was incorrect. It explained that the amendment to the legislation that was published on 19 April 2016 was not made until 31 March 2016, which is after the conclusion of the Internal Review. Although there was an intention to publish the amendment once completed, the order had not been made and therefore was not held at the time of the request. It clarified therefore that the request was for the legislation that allowed TfL to make the amendment to The London Cab Order rather than access to the amendment itself. It said that the internal review should have advised the complainant that the legislation that enabled TfL to introduce a requirement to accept card payments was available on www.legislation.gov.uk (which was provided in the original response) and should have upheld the application of section 21.
10. The Commissioner has considered whether TfL was correct to withhold the requested information under section 21 FOIA.

Reasons for decision

Section 21 FOIA

11. Section 21 FOIA provides that:

“Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.”

12. In this case TfL has confirmed that at the time of the request and internal review, the amendment to the legislation, which was published on 19 April 2016, was not held. The only information it held “that gives powers to TfL which allows them to instruct and dictate that a taxi driver must give credit and accept credit card payments from passengers in their Taxi” was the legislation which TfL had provided a link to in its original response. This legislation allowed TfL to make the amendment to The London Cab Order.

13. However the Commissioner is aware that the amendment, which was not held at the time of the request, is also now publicly available.

14. As the complainant has been provided with a link to the information held by TfL, at the time of the request, the Commissioner does consider that it was reasonably accessible to him. It is therefore exempt from disclosure under section 21 FOIA.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF