

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 10 October 2022

**Public Authority:** Transport for London  
**Address:** 5 Endeavour Square  
London  
E20 1JN

#### **Decision (including any steps ordered)**

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1. The complainant has requested TfL to disclose how many drivers were available to each of the ten Private Hire Operators who had the largest numbers of drivers available to them. TfL refused the request, citing sections 43 and 41 of FOIA.
2. The Commissioner is satisfied that section 41 of FOIA applies in this case. He therefore does not require any further action to be taken.

#### **Request and response**

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3. On 27 August 2022, the complainant wrote to TfL and requested information in the following terms:  
  
"For the most recent reporting period, how many drivers were available to each of the ten Private Hire Operators who had the largest number of drivers available to them. I don't expect the Operators to be identified."
4. TfL refused to disclose the information citing sections 43 and 41 of FOIA. TfL upheld this position at internal review.

## Reasons for decision

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5. The following analysis sets out why the Commissioner has concluded that TfL was entitled to rely on section 41 of FOIA in this particular case.
6. Section 41 of FOIA states that information is exempt if it was obtained by the public authority from any other person (including another public authority), and the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
7. In the decision notice FS50676040<sup>1</sup>, the Commissioner considered a very similar request and upheld TfL's application of section 41 of FOIA. Paragraphs 10 to 21 of this decision outline in detail how section 41 is engaged for this type of information and the Commissioner is satisfied such reasoning applies to this case. Operators are required to supply the requested information under the Private Hire Vehicles (London)(Operators' Licenses)(Amendment) Regulations 2016 and they do so under an implied duty of confidence. In terms of detriment to the confider (operators in this case), TfL has used similar arguments to those contained in the decision for FS50676040 and again the Commissioner considers they are equally applicable in this case.
8. The complainant has stated that his request is different to FS50676040, as he does not ask for the identity of the operators and has only asked for the information for a small sample. This may be true. However, the Commissioner agrees with TfL that a motivated intruder could work out with a high degree of confidence which operators they are and this information would still be detrimental to them if it were disclosed. These differences do not therefore change the Commissioner's position.
9. In terms of any public interest defence for disclosure, the Commissioner cannot identify any significant public interest in this case to outweigh the public interest in maintaining the confidence in the information. He is therefore satisfied that section 41 of FOIA is engaged. As the Commissioner is satisfied that section 41 applies, there is no need to go on to consider section 43.

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<sup>1</sup> [fs50676040.pdf \(ico.org.uk\)](#)

## Right of appeal

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10. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

11. 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.
12. 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

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**