

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 26 November 2022

Public Authority: Transport for Greater Manchester
Address: 2 Piccadilly Place
Manchester
M1 3BG

Decision

1. The Commissioner's decision is that, on the balance of probabilities, Transport for Greater Manchester does not hold the specific information the complainant has requested associated with its transport strategy and therefore regulation 12(4)(a) of the EIR is engaged.

Request and response

2. The complainant made the following information request to Transport for Greater Manchester (TfGM) on 25 July 2022:

“Whether the 36 page policy document as part of the Transport Strategy still reflects TfGM's current position.

If not, when will this policy be replaced and when will this replacement be made public?”
3. TfGM's final position is that it does not hold recorded information within scope of the request.

Reasons for decision

4. This reasoning covers whether, on the balance of probabilities, TfGM holds the information the complainant has requested.
5. Like FOIA, the EIR concern solely information held in recorded form; the EIR do not oblige a public authority to give explanations or opinions, or to answer general questions.
6. Regulation 12(4)(a) of the EIR states that a public authority may refuse to disclose [recorded] information to the extent that it does not hold that information when an applicant's request is received.
7. As framed, the complainant's requests read more as general questions than requests for recorded information. However, in its initial response to the request, TfGM advised it held information that related to the request. It then reproduced some information about On Street Residential Parking Scheme funding; advised that if the "36 page document" the complainant had referred to was the 'Electric Vehicle Charging Infrastructure Strategy' ('the Strategy') then this had not been superseded; and finally advised that TfGM had commissioned a study into "GM and EV" [Greater Manchester and Electric Vehicles].
8. In their request for internal review, the complainant expressed dissatisfaction over the fact that TfGM had not provided a date when the "new study" would be completed or advised how it made available. They also disputed, as they have also done in correspondence to the Commissioner, that the Strategy had not been superseded. As noted, the EIR concern recorded information only, not the accuracy or otherwise of a statement a public authority has made.
9. With regard to the first concern, in its internal review TfGM correctly pointed out that the complainant's original request is as reproduced at paragraph 2 ie the request is not for information about the study. TfGM advised that the complainant could submit a new request if they are now seeking information about that study. Regarding the second concern, TfGM confirmed that the Strategy had not been superseded.
10. To the extent that the complainant's request can be considered to be a request for recorded information, the Commissioner is satisfied that TfGM has adequately addressed the request and that, on the balance of probabilities, it does not hold recorded information that falls within its scope. Regulation 12(4)(a) of the EIR is therefore engaged.
11. Technically, regulation 12(4)(a) is subject to the public interest test. However, in the Commissioner's opinion it is not necessary to consider the public interest test here as to do so would be illogical; the public interest cannot favour disclosing information that is not held.

Right of appeal

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

13. 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.
14. 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

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