

Procedure

PR0352 A3 Privacy and data protection complaints handling

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1 Purpose

This document outlines the procedure through which complaints about the processing (i.e. collection, storage, use or disposal) of personal information by TfL, are investigated and resolved.

2 Scope

This procedure applies to all business areas of TfL.

This procedure applies where an incident of non-compliance (with a statutory or TfL policy related requirement) has been identified internally, in the absence of a complaint by an affected individual.

Note: 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 the subject of financial or other serious penalties imposed by the Information Commissioner or civil courts.

3 Procedure

3.1 Context

3.1.1 This procedure is not intended to provide a substitute for, or undermine, an individual's right to complain directly to the Information Commissioner's Office (ICO) about the way in which TfL has processed (or is processing) personal information. However, TfL has chosen to adopt this procedure in accordance with best practice outlined by the ICO.

3.2 General information

- 3.2.1 Individuals may submit a complaint which falls within the scope of this procedure if, for example:
- a) they believe that their personal information has been processed for a purpose other than that for which it was originally collected
 - b) they believe that their personal information has been misused or compromised whilst being processed by TfL
 - c) they believe that their personal information has been disclosed unlawfully in response to a request from a third party
 - d) their Subject Access Request (SAR) was not dealt with within the statutory deadline specified in privacy and data protection legislation; they did not receive all of the personal information to which they believe they were entitled; or they feel that exemptions to disclosure have been wrongly applied.
 - e) they consider that their rights to be informed, to rectification and erasure, to restrict or object to processing, their right to portability of their personal data or their rights in relation to automated decision making & profiling have not been appropriately observed.

Note: It is important to note that the complaints handling process is an opportunity to consider a SAR or other request to exercise Data Subject rights completely afresh. The review process may also be a trigger for the involvement of the Privacy and Data Protection Team, Internal Audit or the Commissioner's Office, for the first time.

3.3 Where to send privacy and data protection complaints

3.3.1 Any specific or implicit complaint expressing concern or dissatisfaction with:

- a) the way in which personal information has been processed by TfL or
- b) TfL's response to a SAR, must immediately be forwarded to the Privacy and Data Protection Team using the following contact details:

Privacy and Data Protection Team Transport for London

55 Broadway

2nd Floor Petty France

London

SW1H 0BD

Email: privacy@tfl.gov.uk

3.4 What happens when complaints are received by Information Governance?

3.4.1 In all cases, complaints must be acknowledged and the complainant informed of TfL's target date for providing a response to their complaint.

3.4.2 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), the Privacy and Data Protection Team will inform the applicant and explain the reason for the delay.

3.5 Timescales for the investigation and resolution of complaints

3.5.1 In accordance with best practice, TfL has adopted the following targets for the conduct of an internal review and the provision of a final response to complainants for complaints covered by this procedure:

- a) written acknowledgment of a complaint should be sent within 5 working days of receipt and include a target date for its resolution
- b) routine complaints will normally be dealt with (and a final response sent to the complainant) within one calendar month of receipt
- c) complex complaints (for example involving the collation and analysis of a large amount of supporting information) can take longer than one calendar month to resolve, in which case an extension to this deadline of up to two calendar months may be required.

3.5.2 If it becomes clear at any stage of the investigation of a complaint that TfL will have to extend the deadline set in the original acknowledgment, the Privacy and Data Protection Team will communicate this to the complainant 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.

3.6 Who will conduct the investigation and resolve the complaint?

- 3.6.1 Complaints will be investigated and resolved by a member of the Privacy and Data Protection Team within Information Governance.
- 3.6.2 Where appropriate (e.g. the escalation of a related issue to a Director or TfL Chief Officer) additional input will be provided by the Head of Privacy and Data Protection and/or the Data Protection Officer and/or TfL's General Counsel.

3.7 How is an investigation conducted?

- 3.7.1 The investigation process of complaints is not intended to be overly bureaucratic and will be conducted in a fair and impartial manner.
- 3.7.2 In the case of a general complaints about the way in which TfL has processed personal information, the Privacy and Data Protection Team will investigate the surrounding circumstances and request copies of any material (documents, emails, etc.) connected with the subject matter of the complaint. If necessary, the Privacy and Data Protection Team will contact individual employees responsible for associated activities or business processes, to establish the facts surrounding the subject matter of the complaint.
- 3.7.3 In the case of a SAR, the Privacy and Data Protection Team will request copies of all material (documents, emails, etc.) connected with the processing of the request. They may 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, the Privacy and Data Protection Team 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. The Privacy and Data Protection Team may also carry out independent searches to locate relevant information.
- 3.7.4 All TfL employees are expected to cooperate fully with the Privacy and Data Protection Team's investigation of a complaint under this procedure and to provide full access to all relevant information.
- 3.7.5 Once all of the relevant background information has been collected, the Privacy and Data Protection Team will prepare a written summary of the facts surrounding the complaint.
- 3.7.6 In the case of a SAR, the Privacy and Data Protection Team will also attach a copy of the original request(s) to this summary.
- 3.7.7 An accurate record of the investigation process will be maintained. This is essential given the possibility of a subsequent investigation by the Information Commissioner

3.8 Possible outcomes of an investigation

- 3.8.1 Once the investigation is complete, the Privacy and Data Protection Team will discuss the conclusions with any affected business area(s) and ensure that any internal processes which may need to be modified are updated accordingly. The Privacy and Data Protection Team will also work with managers within the business to address any training needs identified during the investigation.

3.8.2 In the case of a SAR, where the original response is found to have been inadequate, the applicant must be informed, and told when they can expect the additional information originally requested to be provided to them. Where the response is found to have been adequate, the requester must be notified of this decision and reminded of their right to complain direct to the ICO.

3.9 Monitoring complaints and investigations

3.9.1 Records are kept of the outcome of all investigations carried out under this procedure. The Privacy and Data Protection Team monitors the volume and nature of complaints regarding TfL's processing of personal information and where necessary, will conduct detailed assessments of local business processes to enable it to make recommendations for improvements and address patterns of non-compliance with relevant policies or legislation.

3.9.2 In circumstances where patterns of non-compliance with procedures, policies or legislation are identified, Internal Audit may also be asked to evaluate the conduct and performance of individual TfL business units.

3.10 External investigation of complaints against TfL

3.10.1 Any complaint about TfL's handling of personal information may be escalated to the Information Commissioner. In such circumstances the Privacy and Data Protection Team is responsible for liaising with the ICO, collating any supporting evidence and preparing TfL's formal response.

3.10.2 If TfL receives a written communication (including one transmitted electronically) from the ICO referring to a complaint about TfL's processing of personal information, it must immediately be forwarded to the Privacy and Data Protection Team using the contact details provided in section 4.2.

3.10.3 TfL is legally obliged to co-operate with an investigation carried out by the ICO and all TfL employees are expected to co-operate fully with any request from the Privacy and Data Protection Team to assist in the preparation of a response; and to provide full access to all relevant information.

4 Local procedures/supplementary guidance

4.1 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 Privacy and Data Protection prior to publication.

5 Contact details

5.1 For advice and guidance on the contents and application of this procedure, please contact: privacy@tfl.gov.uk.

6 Person accountable for this document

Name	Job title
Simon Guild	The Head of Privacy and Data Protection

7 Definitions

Term	Definition	Source
Information Commissioner	The independent regulator appointed by the Crown to uphold information rights and enforce the provisions of privacy and data protection legislation	Glossary
Privacy and Data Protection Team	A business unit within the Information Governance department of General Counsel responsible for TfL's compliance with privacy and data protection legislation	Glossary
Subject Access Request	A request to access personal information (from the individual to whom the information relates) covered by the provisions of privacy and data protection legislation and a Code of Practice issued by the Information Commissioner	Glossary
Transport for London	The statutory corporation and its operating subsidiaries	Glossary

8 Abbreviations

Abbreviation	Meaning
ICO	Information Commissioner's Office
SAR	Subject Access Request
TfL	Transport for London

9 Document history

Issue no.	Date	Changes	Author
A1	January 2016	This procedure was approved by the Head of Information Governance on 12 March 2013. It was updated on 7 February 2014 and on 4 January 2016 to reflect organisational changes.	James Alexander
A2	May 2017	Procedure updated and reformatted using the current template as per change No. 05373.	James Alexander
A3	May 2018	Procedure updated to incorporate Data Subject Rights under the General Data Protection Regulation. Change No. CR-10552.	Simon Guild