

Appendix 3

Please note that personal information such as email addresses has been deleted.

From: Simon Birkett

Sent: 11 June 2010 09:50

To: Enquire (TfL); 'Mayor of London'

Subject: FOI/EIR request for emissions related information (WEZ)

Please forward to your Freedom of Information (FOI) Officer

Dear FOI Officer at Transport for London (TfL) and Mayor of London

11 June 2010

LETTER REQUESTING ENVIRONMENTAL INFORMATION

Please confirm receipt of this request.

I am writing to request information under the Environmental Information Regulations 2004/Freedom of Information Act 2000. In order to assist you with this request, I am outlining my query as specifically as possible.

This query relates primarily to environmental and public health impacts that may arise as a result of the proposed removal of the western extension of the congestion charging zone (WEZ). I am interested in two air pollutants: dangerous airborne particles (PM10) and nitrogen dioxide (NO2).

Please send me copies of any information held by TfL about emissions and/or assumptions relating to Figure 5-1 (Meeting EU limit values for PM10 on Knightsbridge, Brompton Road, Thurloe Place and Cromwell Road) in 'Proposals for changes to the Congestion Charging Scheme, Public and Stakeholder Consultation May-August 2010' (which is attached) or otherwise in relation to the area of London shown in that Figure. I am interested for example in the assumptions made (e.g. to use DfT 2009 emission factors), the highest concentrations of PM10 within each 'concentration contour' shown; and discovering what adjustments (if any) TfL has made to ERG/Kings College London's work. I am keen also and separately to see any work undertaken or estimates produced or analysis done by or for TfL about annual mean concentrations of NO2 in that part of London for each of calendar 2010 and 2011 since it seems, on the face of it, no such analysis is provided in any of the consultation documents relating to the proposed removal of the WEZ.

You are presumably aware that EU limit values for NO2 entered into force on 1 January 2010 and that EU limit values apply everywhere (and once attained may not be exceeded). This means that if the WEZ is formally removed on 4 January 2011

annual mean concentrations of ambient NO₂ may not exceed 40 micrograms per cubic metre (ug/m³) anywhere that has attained that level in calendar 2010. In addition, if the UK obtains a time extension – perhaps until 1 January 2015 – to comply with this limit value then annual mean concentrations of NO₂ must not exceed 60 ug/m³ after 1 January 2010. I am keen to see any analysis done by or for TfL that addresses this very serious public health issue.

I would be interested in any information held by TfL regarding my request e.g. analysis or reports prepared by others for TfL; emails or minutes of meetings held; and TfL's own analysis. I understand I do not have to specify particular files or documents and that it is TfL's responsibility to provide the information I require. If you need further clarification, please contact me by email on

.

I would like to receive the information in electronic and paper form please. I would be pleased to discuss the collection/delivery arrangements for such paper copies.

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees. If you plan to charge for this information, I would ask that you pay particular attention to the ruling on fees made by the Information Tribunal 28 March 2006: Mr David Markinson v. Information Commissioner.

This decision makes clear that public authorities cannot charge an unreasonable amount for environmental information. It directed King's Lynn and West Norfolk Borough Council to overturn their charging structure and adopt instead a price of 10p per photocopied A4 page. Section 44 of the Tribunal decision states that a public authority can only exceed the guide price if it can demonstrate a good reason to do so, and in considering whether any such reason exists the public authority should:

i. take due regard of the guidance set out in the Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004 and the Guidance to the Environmental Information Regulations 2004, both published by Defra, to the effect that any charge should be at a level that does not exceed the cost of producing the copies;

ii. disregard any costs, including staff costs, associated with the maintenance of the information in question or its identification or extraction from storage; and

iii. disregard any factors beyond the number and size of sheets to be copied, in particular, the real or perceived significance of the content, or the effect that any charging structure may have on TfL's revenue or its staff workload.

I look forward to your response within the 20-working-day time limit, and would be grateful if you could confirm in writing that you have received this request.

Thank you and regards,

Simon

Simon Birkett
Founder

Campaign for Clean Air in London

Your ref:
Our ref: TfL106434

Simon Birkett
Campaign for Clean Air in London

Dear Mr Birkett

RE: LETTER REQUESTING ENVIRONMENTAL INFORMATION

1. Thank you for your letter of 11 June sent to the Mayor and to TfL requesting information under the Freedom of Information Act as set out in your correspondence. Since the information you request is of an environmental nature we propose treating it as a request under the Environmental Information Regulations 2004 ("EIR"), as has been our approach to date.

PM₁₀ modelling for WEZ

2. You have asked for information held by TfL about emissions and/or assumptions relating to Figure 5-1 in the Congestion Charging Variation Orders "Scheme Description and Supplementary Information" document informing the consultation on the proposed changes to the Congestion Charging scheme. You also asked for the highest concentrations of PM₁₀ within each 'concentration contour' shown, and details of any adjustments made to ERG / Kings College London's work.

Background information on the London Air Quality Model

3. TfL and the GLA predict the levels of pollution in London's air (i.e. concentrations) using The London Air Quality Model ("the London Model"), which was developed by the Environmental Research Group (ERG) at King's College London. This estimates how pollution will be dispersed over time and distance from where it is released, depending on weather conditions.
4. The model takes into account sources of emissions within London, as well as chemical reactions and the additional pollution which reaches London from sources outside, including from southern England, Europe and further afield.
5. The pollutants of concern in London are nitrogen dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}) as these are often associated with health impacts, and the EU has set limit and target levels for these pollutants which are to be implemented by each European member state.
6. The years and pollutants modelled are:

- 2008 for NO₂ and PM₁₀ (the most recent year for which monitoring and source activity estimates are available in order to validate the London Model)
 - 2011 for PM₁₀ (the year in which PM₁₀ limit values will have to be met should the Government obtain a time extension from the European Commission)
 - 2015 for NO₂ (similarly, the year by which the EU Limit Values for NO₂ would have to be met).
7. The basis for the air pollution modelling is the London Atmospheric Emissions Inventory (LAEI) which provides the estimates of the amount of emissions to the air that are produced by sources within the London area.
 8. The LAEI considers many different types of sources across London including road traffic, airports, rail, shipping, domestic, commercial and industrial fuel use, industrial processes and boilers, along with sources such as sewage treatment, solvent use, and natural sources, which are important contributors to particulate emissions in London.
 9. Although construction sites are a significant source of local PM₁₀ and PM_{2.5} pollution, pollution from this source has historically been difficult to estimate and is not yet included in the LAEI. The annual emissions from most of these sources are estimated for grid squares of 1x1km across London so that the contribution of different sources can be assessed for the whole of London.
 10. More information about the ERG modelling can be found at <http://www.erg.kcl.ac.uk/Modelling.aspx?DeptID=Modelling&CategoryID=ModellingDevelopment>

Road traffic emissions modelling

11. An advanced road traffic emissions model developed for the GLA/TfL is used to provide detailed information on road traffic emissions across the day and at different times of the year. Traffic flows on over 63,000 major road links are used to determine emissions to air from road traffic, representing over 12,000 kilometres of the main roads in London. Information on traffic speeds, vehicle types, and vehicle age is also taken into account in order to estimate how much pollution is emitted to the atmosphere.
12. The traffic data is based on three main sources of information including data from over 6000 manual classified counts (MCC) across London, several hundred automatic counters, the London Transportation Studies Model (LTS) road traffic predictions for London, and vehicle-kilometre estimates for small minor roads in London (based on DfT estimates).

13. LTS is a strategic multi-modal transport model for London and its surrounding area. It is one of the largest such models and is used in a wide range of applications, providing forecasts, analysis and traffic data using a detailed database of travel patterns within the London area. Traffic speeds are derived from surveys undertaken by TfL across London's main road network in order to provide representative average speeds throughout the day.
14. Due to improvements in engine technologies and the introduction of more efficient systems, introduced largely as a result of EU regulation ("Euro standards"), new vehicles tend to produce less pollution than older vehicles. However, the real-world emissions from vehicles in urban conditions is a matter of much discussion across the EU. The profile of how vehicle emissions standards change over time is defined by the Euro standard profiles of different vehicle types. In general, newer vehicles with lower emissions (based on the standard emissions testing cycle required), have a higher Euro standard classification .
15. The Euro standard profiles for motorcycles, cars, licensed taxis (black cabs), buses and coaches, LGVs, and rigid and articulated HGVs are determined nationally using the National Atmospheric Emissions Inventory (NAEI), which is produced on behalf of Defra, but have been amended for this work to take into account differences in the London fleet. These include the impacts of the Low Emission Zone (LEZ) which has resulted in cleaner HGV, bus and coach fleets in London. Assumed Euro standard profiles (the percentages of the total stock at each Euro band) are provided in Table 1, below. NB, percentages may not sum to 100% due to rounding.

Table 1: Vehicle Fleet Euro standard assumptions for WEZ assessment.

Taxi Stock	2011 %	2015 %
Pre-Euro I	2.8	1.3
Euro I	0.0	0.0
Euro II	0.0	0.0
Euro III	58.2	38.1
Euro IV	38.0	39.3
Euro V	0.0	16.2
Euro VI	0.0	4.1
LPG	1.0	1.0

LT Buses	2011 %	2015 %
Euro II + DPF	13.5	0.0
Euro III + DPF	53.6	41.8
Euro III + DPF+SCR	0.0	0.0
Euro IV	21.4	21.4
Euro V	8.4	33.7
Euro IV Hybrid	1.9	1.9
Euro V Hybrid	1.2	1.2

Diesel LGV and Minibus	2011 %	2015 %
Pre-Euro I	1.5	0.0
Euro I	4.2	0.6
Euro II	9.5	2.0
Euro II + RPC	0.0	0.0
Euro III	41.2	16.5
Euro IV	40.7	21.7
Euro V	2.9	59.2
Euro VI	0	0.0

Articulated HGV	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.0	0.0
Euro II	0.2	0.0
Euro II + TRAP	1.1	0.0
Euro III	26.9	0.0
Euro III (PM) + Euro II (NOx)	0.8	0.0
Euro IV (PM) + Euro III (NOx)	0.0	7.2
Euro IV	30.2	7.9
Euro V	40.8	50.5
Euro VI	0	34.5

Rigid HGV	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.0	0.0
Euro II	0.6	0.0
Euro II + TRAP	0.9	0.0
Euro III	36	0.0
Euro III (PM) + Euro II (NOx)	1.2	0.0
Euro IV (PM) + Euro III (NOx)	0	7.4
Euro IV	22.4	6.4
Euro V	38.9	53.8
Euro VI	0	32.4

Coaches	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.1	0.0
Euro II	0.7	0.0
Euro II + TRAP	6.1	2.4
Euro III	35.8	0.0
Euro III (PM) + Euro II (NOx)	2.2	0.0
Euro IV (PM) + Euro III (NOx)	0.0	14.6
Euro IV	23	16.6
Euro V	32.2	40.8
Euro VI	0.0	25.5

Car Stock Assumptions	2011 %	2015 %
Petrol		
Pre-Euro I	3.3	1.5
Euro I	1.5	0.2
Euro II	8.6	1.7
Euro III	13.9	5.2
Euro IV	56.1	36.2
Euro V	16.6	46.3
Euro VI	0.0	8.9
LPG	0.0	0.0

Diesel	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.8	0.1
Euro II	3.5	0.6
Euro III	21.9	8.9
Euro III + TRAP	4.1	1.8
Euro IV	38.4	22.4
Euro IV + TRAP	9.6	5.4
Euro V	21.7	50.6
Euro VI	0.0	10.1
LPG	0.0	0.0
The split of petrol/diesel cars is 69%/31% in 2011, and 63%/37% in 2015 as provided in NAEI.		

16. As well as exhaust emissions, the road traffic emissions model takes into account emissions of particulate matter from tyre and brake wear, which is expected to be a greater source than exhaust emissions in future years. The model also includes estimates of additional emissions due to using cold engines ('cold starts'), and from evaporation related to high engine temperatures.
17. When modelling road traffic emissions, it is also important to consider the width of roads and presence of buildings, which affect how emissions to air will interact with the surrounding environment. These are taken into account in the ERG model main road network.
18. Once the 2008 base data model is validated, models for future years are then built. These include projected changes in activity (for example traffic growth over time, and the use of domestic gas in future years) along with projections of how the emissions (i.e. factors) for these sources are likely to change over time. The London Model uses the projections for changes in road traffic emissions performance provided by Defra and DfT (last updated in 2009), although this is supplemented with TfL data for buses in London where possible (such as hybrids), whilst for other sources the expected changes in emissions factors over time is based on the methods set out in the LAEI and NAEI.
19. Non-transport policies related to reducing emissions from residential and commercial energy use have also been quantified.. Emission reduction estimates have been derived from models used to support implementation of the GLA energy efficiency programmes.

Concentration modelling

20. Once the emissions for London have been determined, the London Air Quality Model, developed by ERG, is used to predict concentrations of pollutants in London's air based on the emissions. Predicted concentrations are made based

on 20m grid spacing across London, although PM₁₀ modelling at a 5m spacing has been used for Central London only in 2011.

21. The concentration of a pollutant in the air at any location is in part due to the distance between the receptor and the source of the emission. The pattern of dispersion of pollution with respect to any receptor will be dependent on many factors including the variability and strength of emissions, local features that can affect wind flow patterns, and the general ambient weather conditions at the time. For example, cool and calm weather conditions with low wind speeds can lead to pollution being trapped in some locations and concentrations can increase because there is little movement of the air to disperse the pollution.
22. The London Model uses observations of wind speeds and directions, air temperature and other parameters recorded every hour for London in order to estimate the condition of the atmosphere (called stability), so that variable weather conditions can be accounted for. It is not possible to predict with confidence the actual hourly meteorological conditions for future years, so the model uses a recent 'representative year', in this case 2008, which is a reasonable representation of annual meteorology for Greater London.
23. The London Model has been updated for a base year of 2008 from which comparisons with pollution monitoring data in London can be made to ensure the basis provides a reasonable estimate of London's pollution levels. It is widely recognised that there are many uncertainties in the prediction of air pollution concentrations, such as those related to emissions factors, as well as variability of model parameters and monitoring data.
24. The process of comparing modelling and monitoring data is often known as model validation and involves checking the many different parameters and modelling options in order to reduce modelling error as much as reasonably possible. Once the 2008 model has been validated, it is then used for prediction of emissions and concentrations in the years 2011 and 2015.

Assumptions underpinning the modelling of impacts of WEZ removal

25. For the purposes of the assessment of the impacts of WEZ removal in 2011, the following inputs have been assumed. The WEZ-removed scenario in 2011 referred to in the consultation documents is the same as the 2011 baseline used within draft Mayor's Air Quality Strategy (MAQS). This assumes that LEZ Phases 1, 2 and 4 go ahead as planned but do not include any of the additional MAQS policies.
26. The ERG method used for preparation of the results has removed natural salt and determines that the annual mean PM₁₀ concentration equivalent to the daily

mean limit value of 35 days is $31.4 \mu\text{g}/\text{m}^3$ in 2011. This is consistent with Defra's approach which has determined that the equivalent concentration is $31.5 \mu\text{g}/\text{m}^3$ in any year.

27. Assumed traffic flows on road links within and around the Western Extension area considered the potential changes in traffic flow as a result of the removal of the WEZ. The impact of these changes on emissions and concentrations of PM_{10} and NO_2 concentrations in 2011 has been assessed.
28. As noted in the Supplementary Information document, estimates of the impacts of the removal of WEZ on emissions of air quality pollutants from road transport have been made using traffic composition and speed changes that broadly correspond to a scenario in which around half of the effective road network capacity that is estimated to have been lost in the Western Extension area is recovered. They therefore give a relatively pessimistic view of the likely changes because additional traffic would be induced in these circumstances.
29. TfL made no adjustments to any of the results of modelling of concentrations of PM_{10} or daily mean exceedences produced by ERG for the purposes of this assessment.

Information on emissions impacts

30. The daily mean limit value is expected to be achieved outside the red contour line shown in Figure 5-1 in the Supplementary Information document (here provided as Figure 1). The red contour line is equivalent to 35 days' exceedence of daily mean PM_{10} concentrations of $50 \mu\text{g}/\text{m}^3$, and is based on the interpolation of annual mean concentrations, which are themselves outputs of work undertaken by ERG, who modelled concentrations at a spacing of 5m^2 .
31. The assessment of compliance with the EU limit value has not considered concentrations within the road carriageway itself. This is consistent with the approach taken by Defra. However, TfL's assessment also considers the concentrations at the kerbside of major junctions.
32. Figure 2 shows the predicted annual mean PM_{10} concentrations in 2011 (both with- and without WEZ) for a wider area, including the Western Extension area. In addition, Figure 3 shows the area around Knightsbridge / Cromwell Road / Thurloe Place / Old Brompton Road in more detail.
33. The figures show that the highest concentrations of PM_{10} are predicted to occur within the road carriageway itself. TfL's analysis, taking into account contours which lie along the road surface and close to the kerb, and the grid spacing of

the modelling methodology, lead to the conclusion that EU limit values are expected to be met within the Western Extension area, both with and without the WEZ scheme.

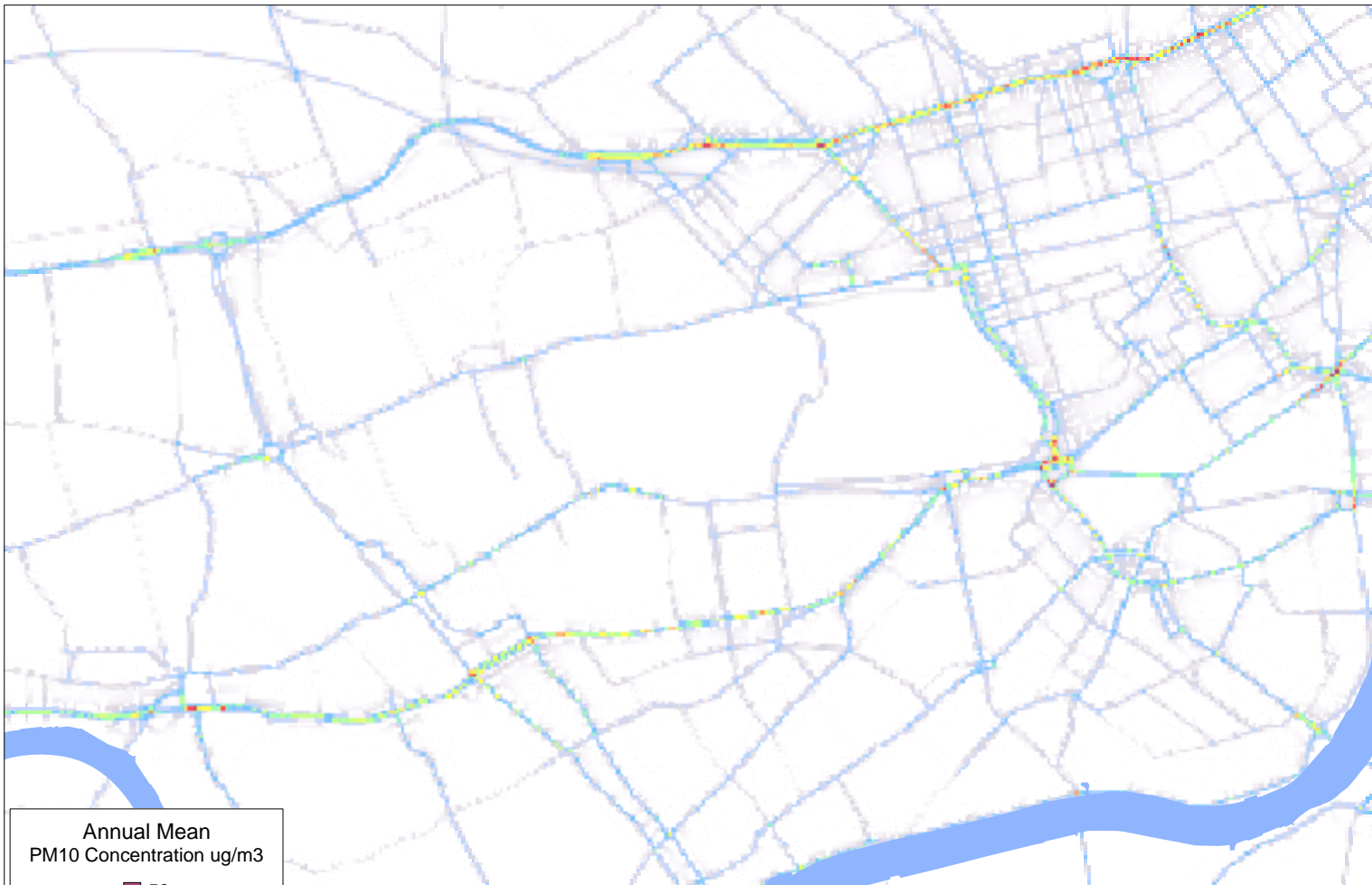
NO₂ concentrations in WEZ and Time Extension Notice on NO₂

34. You also asked about work on annual mean concentrations of NO₂ in the area covered by Figure 5-1 in 2010 and 2011.
35. Modelling of NO₂ concentrations has been undertaken for 2011 for both with- and without-WEZ scenarios. The focus of this modelling is on the annual mean NO₂ concentrations, since modelling of hourly NO₂ concentrations is more uncertain due to the very local influences within individual streets which affect short-term concentrations. However, recent monitoring across London shows that the hourly concentrations tend to be below 200 µg/m³ (18 exceedences allowed) at the majority of locations except some kerbside and roadside sites which will be undergoing further investigation.
36. Figure 4 shows the predicted concentrations of annual mean NO₂ in 2011 with and without WEZ, within the general Western Extension area, whilst Figure 5 shows the locations around Knightsbridge / Cromwell Road / Thurloe Place / Old Brompton Road in more detail. Concentrations of NO₂ in the areas shown in green or blue are predicted to be below the annual mean limit value of 40 µg/m³, whilst concentrations in those areas shown in yellow, orange or red are close to or above the limit value. The modelling for 2011 shows that in central London, most background locations are above the limit values, whilst within the Western Extension area, background concentrations tend to be lower, but that the limit value is predicted to be exceeded at most roadside locations – both with and without WEZ.
37. The location of the predicted 40 and 60 µg/m³ annual mean NO₂ contours both with and without WEZ is shown in Figures 6 and 7. The removal of WEZ is not predicted to have any significant impact on NO₂ concentrations, and the position of both contours is largely unaffected by WEZ removal as many sources contribute to overall NO₂ concentrations. The assessments undertaken have considered the 40 µg/m³ limit value only. Defra is responsible for the assessment of compliance of NO₂ concentrations, including the attainment of 60 µg/m³ (related to the margins of tolerance assessment) for submission to the EU, and this work is currently ongoing and due to be reported in 2011 through the Time Extension Notification process.
38. The impact of the removal of WEZ is shown in Figure 8 in terms of changes in annual mean NO₂ concentrations. This shows that the main impacts, between

1 and 2 $\mu\text{g}/\text{m}^3$ annual mean, are predicted at the kerbside of roads within WEZ, whilst negligible changes in concentrations are predicted further from roads and at background locations. As shown in Figures 7 and 8, these impacts do not affect the overall attainment of 40 $\mu\text{g}/\text{m}^3$ in 2011.

Predicted Annual Mean PM10 concentrations with contour representing 35 Exceedence Days of Daily PM10 with WEZ Removed (2011)
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road





Predicted Annual Mean PM10 Concentrations in 2011 with WEZ Removed



Predicted Annual Mean PM10 Concentrations in 2011 with WEZ
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road



Predicted Annual Mean PM10 Concentrations in 2011 with WEZ Removed
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road





Predicted Annual Mean NO2 Concentrations 2011 With WEZ Removed

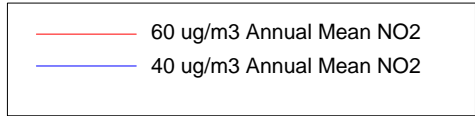
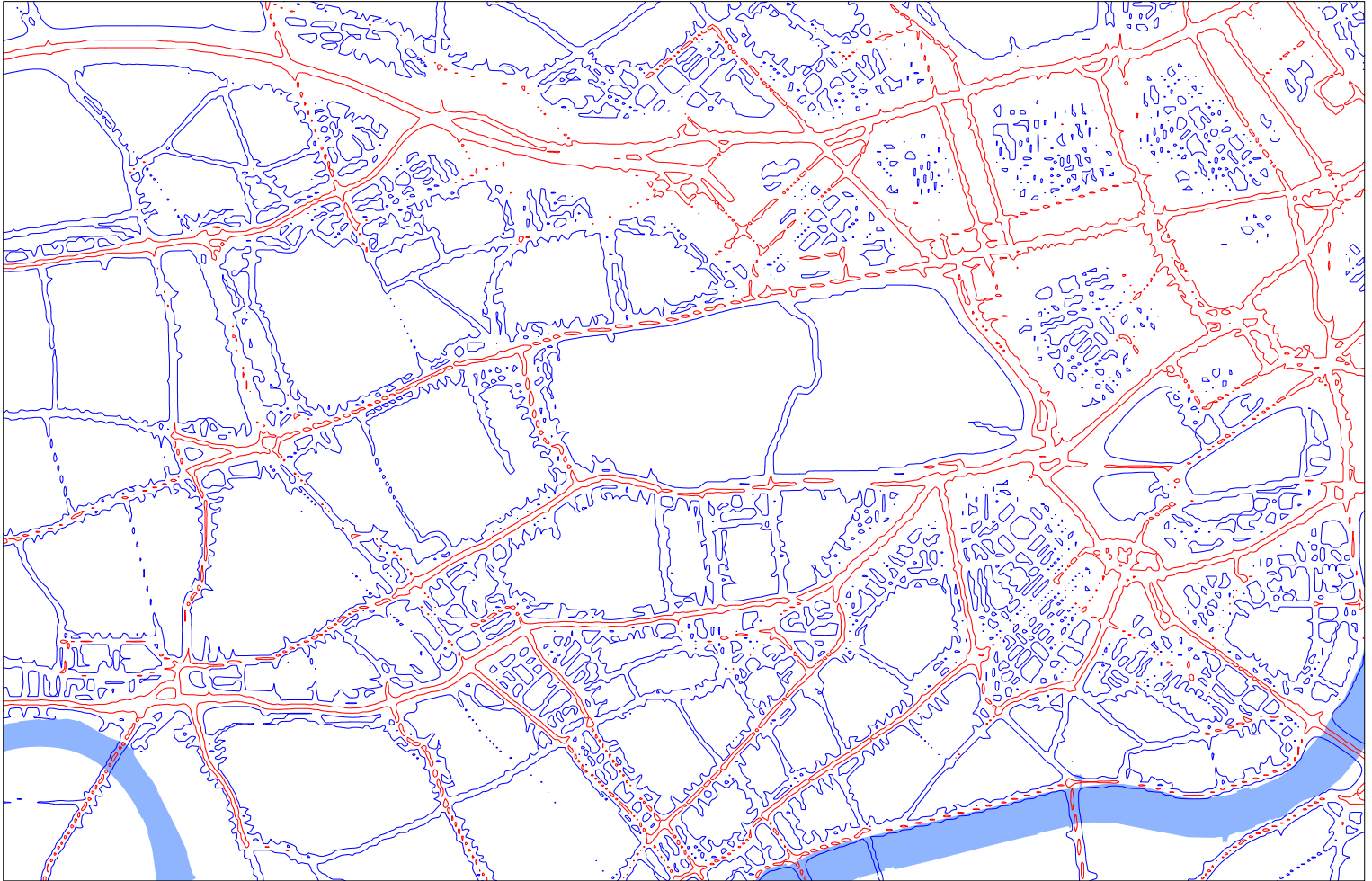


Predicted Annual Mean NO2 Concentrations 2011 With WEZ
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road

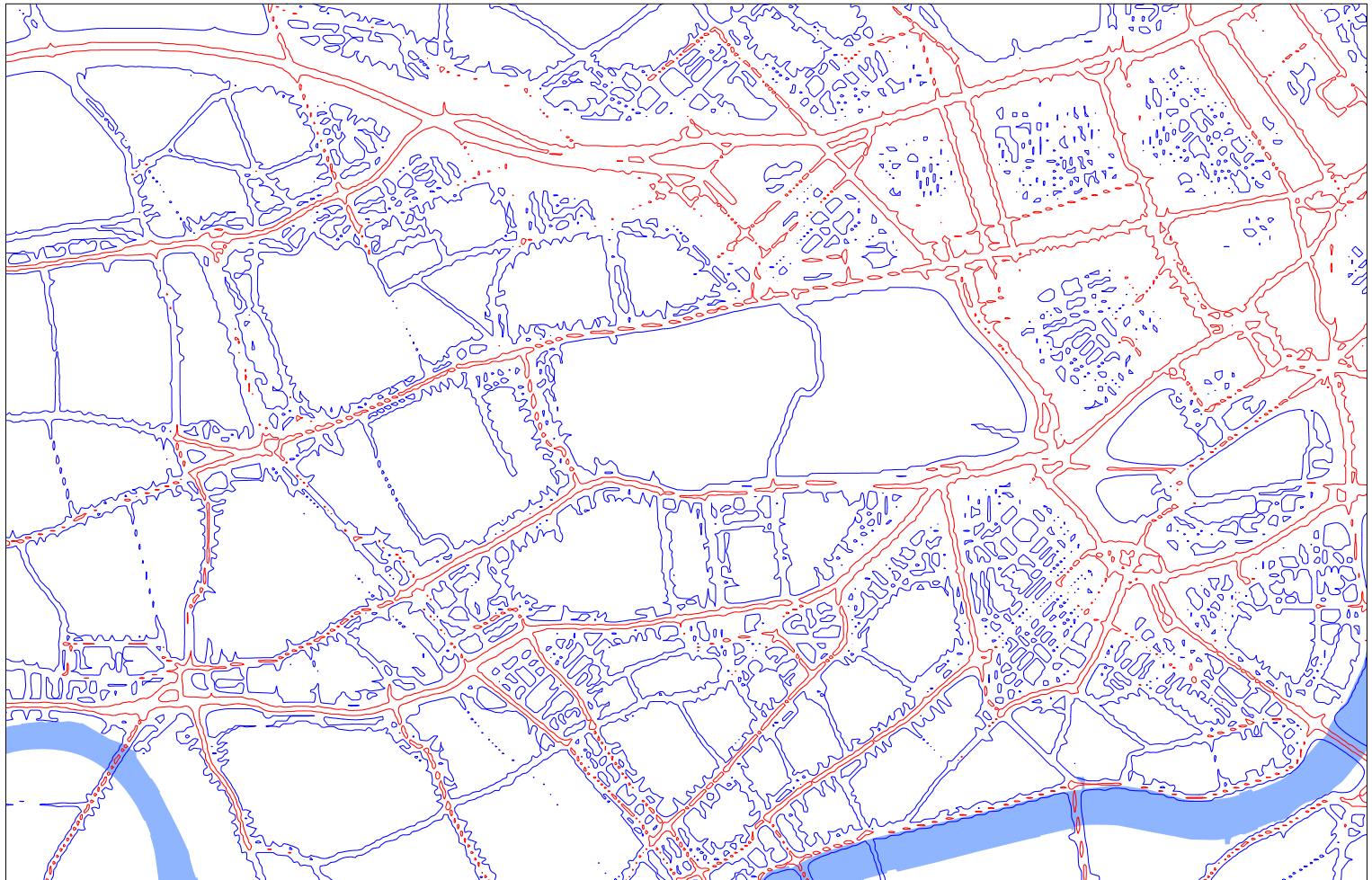


Predicted Annual Mean NO2 Concentrations 2011 With WEZ Removed
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road





Predicted Annual Mean NO2 Concentrations 2011 With WEZ Removed



Predicted Annual Mean NO2 Concentrations 2011 With WEZ
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road

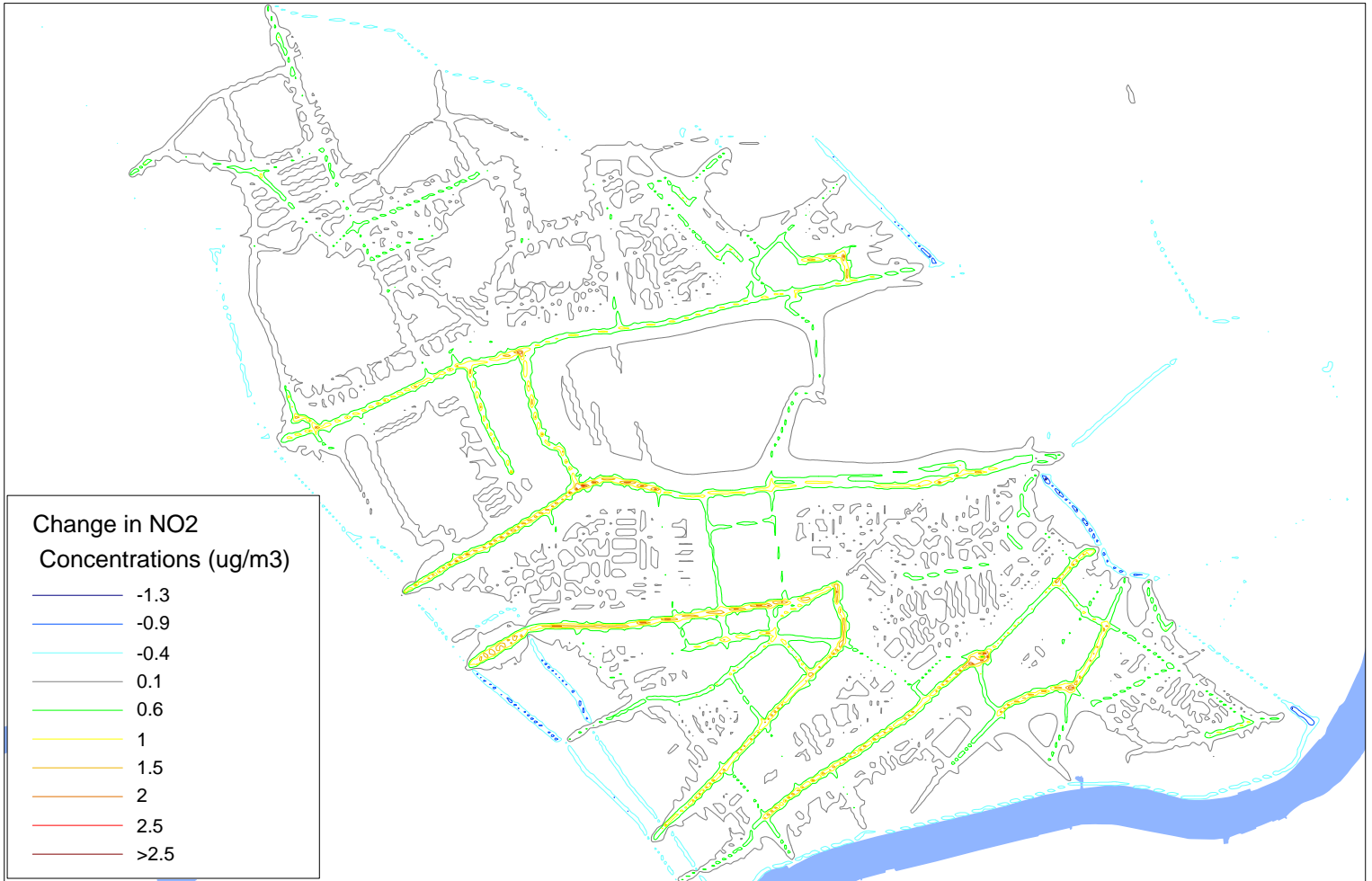


— 60 ug/m3 Annual Mean NO2
— 40 ug/m3 Annual Mean NO2

Predicted Annual Mean NO2 Concentrations 2011 With WEZ Removed
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road



Predicted Change in Annual Mean NO2 Concentrations 2011 due to WEZ Removal



Predicted Change in Annual Mean NO2 Concentrations 2011 due to WEZ Removal
Knightsbridge/Cromwell Rd/Thurloe Place/Old Brompton Road



Sent: 25 June 2010 10:13

To:

Subject: RE: EIR/FOI - TFL106678 - T Henderson FOI

the requester has also added that he would like:

1. a copy of the air quality modelling work referred to in para 6.4.9 of

http://www.tfl.gov.uk/assets/downloads/integrated-impact-assessment-removal-Western_Extension-1.pdf

"TfL has modelled the changes in air quality emissions likely to arise from the removal of the WEZ, projecting a small increase in PM10 and NOx emissions from road transport within the Western Extension area"

2. Supporting traffic count data to show that WEZ had no significant impact on the traffic volume, speed or composition along any of the road links referred to below :

"Of the 15 road links with the highest predicted annual average concentrations of PM10 in London, six are along the Marylebone Road/Euston Road – the northern boundary of the WEZ and Central Charging Zone (CCZ) - four are along the “free passage route” running between the WEZ and CCZ, and the remaining five are either within the CCZ or to the east of the CCZ. Evidence from extensive TfL traffic count data shows that the WEZ had no significant impact on the traffic volume, speed or composition along any of these road links."

Subject: Freedom of Information request - Western Extension Zone Integrated Impact Assessment - References

Dear Transport for London,

Under the Environmental Information Regulations, please can I request a copy of the Scott Wilson Variation Order 1 Integrated Impact Assessment which contains the footnote references.

The version from the website at

http://www.tfl.gov.uk/assets/downloads/integrated-impact-assessment-removal-Western_Extension-1.pdf

only appears to give footnote references for the superscripted numbers on the first eight pages.

Yours faithfully,

T Henderson

Your ref:
Our ref: TFL106678

Mr T Henderson

Dear Mr Henderson

RE: LETTER REQUESTING ENVIRONMENTAL INFORMATION

1. Thank you for your email of 20 June to TfL requesting information under the Freedom of Information Act as set out in your correspondence. Since the information you request is of an environmental nature we propose treating it as a request under the Environmental Information Regulations 2004.

Integrated Impact Assessment (IIA) references

2. You alerted TfL to the fact that the version of the of the Scott Wilson Variation Order 1 Integrated Impact Assessment which was available on the TfL website to support the consultation on changes to the central London Congestion Charging scheme did not contain all the footnotes referred to in the body of the document. TfL has since uploaded a version of the document with footnotes intact, and thanks you for pointing this error out. For your future reference, the full document is available at <http://www.tfl.gov.uk/assets/downloads/WEZ-VO1-IIA-Report.pdf>, and I have included a copy with this letter.

A copy of the air quality modelling work referred to in paragraph 6.4.9 the IIA

3. The air quality modelling referred to here is published in the IIA as Tables 4-3 and 4-4. In addition, it may be helpful to provide you with some background information as to how TfL produced these tables.
4. An advanced road traffic emissions model developed for the GLA/TfL is used to provide detailed information on road traffic emissions across the day and at different times of the year. Traffic flows on over 63,000 major road links are used to determine emissions to air from road traffic, representing over 12,000 kilometres of the main roads in London. Information on traffic speeds, vehicle types, and vehicle age is also taken into account in order to estimate how much pollution is emitted to the atmosphere.
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Euro VI	0.0	4.1
LPG	1.0	1.0

LT Buses	2011 %	2015 %
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Diesel LGV and Minibus	2011 %	2015 %
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Euro I	4.2	0.6
Euro II	9.5	2.0
Euro II + RPC	0.0	0.0
Euro III	41.2	16.5
Euro IV	40.7	21.7
Euro V	2.9	59.2
Euro VI	0	0.0

Articulated HGV	2011 %	2015 %
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Euro II + TRAP	1.1	0.0
Euro III	26.9	0.0
Euro III (PM) + Euro II (NOx)	0.8	0.0
Euro IV (PM) + Euro III (NOx)	0.0	7.2
Euro IV	30.2	7.9
Euro V	40.8	50.5
Euro VI	0	34.5

Rigid HGV	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.0	0.0
Euro II	0.6	0.0
Euro II + TRAP	0.9	0.0
Euro III	36	0.0
Euro III (PM) + Euro II (NOx)	1.2	0.0
Euro IV (PM) + Euro III (NOx)	0	7.4
Euro IV	22.4	6.4
Euro V	38.9	53.8
Euro VI	0	32.4

Coaches	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.1	0.0
Euro II	0.7	0.0
Euro II + TRAP	6.1	2.4
Euro III	35.8	0.0
Euro III (PM) + Euro II (NOx)	2.2	0.0
Euro IV (PM) + Euro III (NOx)	0.0	14.6
Euro IV	23	16.6
Euro V	32.2	40.8
Euro VI	0.0	25.5

Car Stock Assumptions	2011 %	2015 %
Petrol		
Pre-Euro I	3.3	1.5
Euro I	1.5	0.2
Euro II	8.6	1.7
Euro III	13.9	5.2
Euro IV	56.1	36.2
Euro V	16.6	46.3
Euro VI	0.0	8.9
LPG	0.0	0.0

Diesel	2011 %	2015 %
Pre-Euro I	0.0	0.0
Euro I	0.8	0.1
Euro II	3.5	0.6
Euro III	21.9	8.9
Euro III + TRAP	4.1	1.8
Euro IV	38.4	22.4
Euro IV + TRAP	9.6	5.4
Euro V	21.7	50.6
Euro VI	0.0	10.1
LPG	0.0	0.0
The split of petrol/diesel cars is 69%/31% in 2011, and 63%/37% in 2015 as provided in NAEI.		

9. As well as exhaust emissions, the road traffic emissions model takes into account emissions of particulate matter from tyre and brake wear, which is expected to be a greater source than exhaust emissions in future years. The model also includes estimates of additional emissions due to using cold engines ('cold starts'), and from evaporation related to high engine temperatures.
10. Once the 2008 base data model is validated, models for future years are then built. These include projected changes in activity (for example traffic growth over time, and the use of domestic gas in future years) along with projections of how the emissions (i.e. factors) for these sources are likely to change over time. The London Model uses the projections for changes in road traffic emissions performance provided by Defra and DfT (last updated in 2009), although this is supplemented with TfL data for buses in London where possible (such as hybrids), whilst for other sources the expected changes in emissions factors over time is based on the methods set out in the LAEI and NAEI.
11. Non-transport policies related to reducing emissions from residential and commercial energy use have also been quantified. Emission reduction estimates have been derived from models used to support implementation of the GLA energy efficiency programmes.

Specific assumptions underpinning the modelling of impacts of WEZ removal

12. For the purposes of the assessment of the impacts of WEZ removal in 2011, the following inputs have been assumed. The WEZ-removed scenario in 2011 referred to in the consultation documents is the same as the 2011 baseline used within draft Mayor's Air Quality Strategy (MAQS). This assumes that LEZ Phases 1, 2 and 4 go ahead as planned but do not include any of the additional MAQS policies.
13. As noted in the Supplementary Information document (<http://www.tfl.gov.uk/assets/downloads/cc-consultation-supplementary-information.pdf>), estimates of the impacts of the removal of WEZ on emissions of

air quality pollutants from road transport have been made using traffic composition and speed changes that broadly correspond to a scenario in which around half of the effective road network capacity that is estimated to have been lost in the Western Extension area is recovered. They therefore give a relatively pessimistic view of the likely changes because additional traffic would be induced in these circumstances.

Supporting traffic data for the passage you quote concerning the impact of the Western Extension on traffic on certain routes

14. You asked TfL to supply data to support the statement that “Of the 15 road links with the highest predicted annual average concentrations of PM₁₀ in London, six are along the Marylebone Road/Euston Road – the northern boundary of the WEZ and Central Charging Zone (CCZ) – four are along the “free passage route” running between the WEZ and CCZ, and the remaining five are either within the CCZ or to the east of the CCZ. Evidence from extensive TfL traffic count data shows that the WEZ had no significant impact on the traffic volume, speed or composition along any of these road links.”
15. To be clear, TfL does not recognise this quotation as being from one of its published documents. It would be more accurate to say that evidence from extensive TfL traffic count data shows that the WEZ had no significant *overall* impact on the traffic volume, speed or composition along these road links. This is therefore not material to the other conclusions regarding the removal of the Western Extension, as the emissions model uses link by link data. In other words, such individual site by site data as is available has not shown conditions leading to projected exceedence
16. An extensive account of the impact of the Western Extension on traffic in central London is available in TfL’s sixth Congestion Charging Annual Monitoring Report, which can be found online at <http://www.tfl.gov.uk/assets/downloads/sixth-annual-impacts-monitoring-report-2008-07.pdf>.

From: Simon Birkett
Sent: 03 August 2010 14:21
To: Enquire (TfL)

Subject: FOI/EIR request to TfL re response(s) to latest consultation on proposal to remove WEZ

Please forward to your Freedom of Information (FOI) Officer

Dear FOI Officer at Transport for London (TfL)

3 August 2010

LETTER REQUESTING ENVIRONMENTAL INFORMATION

Please confirm receipt of this request.

I am writing to request information under the Environmental Information Regulations 2004/Freedom of Information Act 2000. In order to assist you with this request, I am outlining my query as specifically as possible.

Please send me copies of any information held by TfL relating to responses from organisations of any sort (i.e. including corporate entities but not private individuals) to the most recent public consultation on the Mayor/TfL's proposal to remove the western extension of the congestion charging zone (WEZ) that were received prior to the official closing time for the consultation i.e. midnight on 2 August 2010. Please also send me any information held by TfL relating to the aggregation of responses from individuals to the public consultation on the proposal to remove the WEZ (e.g. the categorisation, sub-totalling or totalling of responses including any such sub-totals or totals).

I would be interested in any information held by TfL regarding my requests e.g. the submissions from organisations, emails or letters and/or spreadsheets, tables and/or reports analysing the results of the consultation. I would like to receive draft or 'flash' information as soon as it becomes available even if it means receiving the information in stages or with caveats. I understand I do not have to specify particular files or documents and that it is TfL's responsibility to provide the information I require. If you need further clarification, please contact me by email on

.

I would like to receive the information in electronic and paper form please. I would be pleased to discuss the collection/delivery arrangements for such paper copies.

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-

exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees. If you plan to charge for this information, I would ask that you pay particular attention to the ruling on fees made by the Information Tribunal 28 March 2006: Mr David Markinson v. Information Commissioner.

This decision makes clear that public authorities cannot charge an unreasonable amount for environmental information. It directed King's Lynn and West Norfolk Borough Council to overturn their charging structure and adopt instead a price of 10p per photocopied A4 page. Section 44 of the Tribunal decision states that a public authority can only exceed the guide price if it can demonstrate a good reason to do so, and in considering whether any such reason exists the public authority should:

take due regard of the guidance set out in the Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004 and the Guidance to the Environmental Information Regulations 2004, both published by Defra, to the effect that any charge should be at a level that does not exceed the cost of producing the copies;
disregard any costs, including staff costs, associated with the maintenance of the information in question or its identification or extraction from storage; and
disregard any factors beyond the number and size of sheets to be copied, in particular, the real or perceived significance of the content, or the effect that any charging structure may have on TfL's revenue or its staff workload.

I look forward to your response within the 20-working-day time limit, and would be grateful if you could confirm in writing that you have received this request.

Thank you and regards,

Simon

Simon Birkett
Founder

Campaign for Clean Air in London

Our ref: TfL 107704

Mr Simon Birkett
Campaign for Clean Air in London

Dear Mr Birkett

Request for information

Thank you for your email of 3 August 2010 in which you requested copies of any submissions made by organisations to Transport for London's (TfL's) recent consultation on the changes to the central London Congestion Charging scheme and TfL's analysis of these responses.

Your request has been dealt with under the terms of the Environmental Information Regulations and I can confirm that TfL does hold the information you have requested.

However, TfL is not obliged to supply any of the information you have requested, as it is subject to the following statutory exception to the right of access to information:

- Regulation 12(4)(d)- Draft or Incomplete Information.

This allows information to be withheld when the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data.

Regulation 12(4)(d) is engaged because your request relates to TfL's Report to the Mayor on the outcomes of the public and stakeholder consultation on a Variation Order to make changes to the central London Congestion Charging scheme, which is in the course of completion and unfinished.

TfL's preparation of the Report to the Mayor includes its analysis of the consultation responses, received from organisations up to the close of consultation on 2 August 2010.

The use of this exception is subject to an assessment of the public interest in relation to the disclosure of the information concerned. In this case, TfL recognises that there is a general public interest in disclosure, reflecting the importance of greater transparency for public authorities, particularly as far as information affecting the environment is concerned.

However, there are also public interest factors in favour of applying the exceptions to withhold the information you have requested. These reflect the need to progress work to analyse the consultation responses and prepare the Report to the Mayor to inform the Mayor's decision on whether or not to confirm the Variation Order and the relatively limited benefit to be gained from disclosing the responses before the Report to the Mayor is finalised and published. The relatively short timeframe before the responses would otherwise be expected to be made available is also relevant.

Additionally the responses to the consultation and any associated analysis and reports are currently without context and would not necessarily enable an accurate understanding of views about the proposals.

It is in the public interest to preserve TfL's ability to report fully and effectively to inform the Mayor's decision. Releasing partially complete information out of context could negatively affect this.

In view of the above, the factors in favour of withholding the information outweigh the factor in favour of disclosure.

I am sorry that TfL cannot make the information you requested available at the present time. However, I can advise that this information will be made available immediately following the Mayor's decision as to whether or not to confirm the Variation Order, which is anticipated to be made during November 2010.

If you are not satisfied with this response, please see the information sheet below for details of your right to appeal.

Yours sincerely

Lee Hill
Customer Relations Officer



Environmental Information Regulations 2004 Exception Application Form

The Information Access and Compliance Team (IACT) of General Counsel is responsible for approving the application of exceptions to environmental information requested under the Environmental Information Regulations (EIRs). If you have identified environmental information which you think should not be disclosed, please complete this form and return it to IACT at foi@tfl.gov.uk.

Completing this form

This form should be completed by the TfL business area responsible for the information requested. When completing the form, it is important that you provide as much information as possible. This includes a full explanation of any business issues relevant to the application of the exception(s) and an impartial assessment of the public interest in disclosure.

Providing supporting arguments

Because our decision may subsequently be challenged, a robust case explaining why an exception should apply to a particular piece of information is essential. For example, it is not enough to say that disclosure of information would be “harmful”; you need to explain what specific harm would be caused by disclosure. You cannot rely on the argument that disclosure of information would be “misleading” or “taken out of context” as these issues can easily be overcome by providing any necessary caveats or additional context along with the requested information.

Extending the statutory deadline for a response

TfL must respond to EIR requests no later than 20 working days following receipt of a request. However, if you can demonstrate that a request is *complex and voluminous*, TfL may be able to extend the deadline of the request to give itself more time to provide the information or apply any relevant exception(s). Please complete boxes 1-4 below and Appendix 3: [Extending the Deadline](#) before returning to IACT for approval.

1. CONTACT DETAILS:

Name:	Tom King
Business Unit/Directorate	Planning Strategy and Policy
Location:	10 th floor Windsor House 42-50 Victoria St London SW1H 0TL
Email address:	
Telephone number:	

2. DETAILS OF EIR REQUEST: *(Please provide the exact wording of the request or attach a copy of the original request with this application form)*

Case reference number:	TFL107704
Date request received by TfL:	03 August 2010
Date response is due:	1 September 2010
Information requested:	The request is reproduced below: “Please send me copies of any information held by TfL relating to responses from organisations of any sort (i.e. including corporate entities but <u>not</u> private individuals) to the most recent public consultation on the Mayor/TfL’s proposal to remove the western extension of the congestion charging zone (WEZ) that were received prior to the official closing time for the consultation i.e. midnight on 2 August 2010.

	<p>Please <u>also</u> send me any information held by TfL relating to the aggregation of responses from individuals to the public consultation on the proposal to remove the WEZ (e.g. the categorisation, sub-totalling or totalling of responses including any such sub-totals or totals).</p> <p>I would be interested in any information held by TfL regarding my requests e.g. the submissions from organisations, emails or letters and/or spreadsheets, tables and/or reports analysing the results of the consultation. I would like to receive draft or 'flash' information as soon as it becomes available even if it means receiving the information in stages or with caveats. I understand I do not have to specify particular files or documents and that it is TfL's responsibility to provide the information I require. If you need further clarification, please contact me by email on _____</p> <p>I would like to receive the information in electronic and paper form please. I would be pleased to discuss the collection/delivery arrangements for such paper copies.</p> <p>If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees. If you plan to charge for this information, I would ask that you pay particular attention to the ruling on fees made by the Information Tribunal 28 March 2006: Mr David Markinson v. Information Commissioner."</p>
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3. POTENTIALLY EXEMPT INFORMATION: *(Please provide a short description of the information which you believe should be treated as exempt from disclosure and attach a full copy of the information where practicable)*

The information requested falls into two parts:

- 1. Consultation responses from stakeholders, businesses and other organisations received up to midnight on 2 August 2010**
TfL received 33 consultation responses from organisations before the consultation deadline, but more have arrived since and more are expected to arrive in due course. TfL is continuing to analyse these responses in order to report to the Mayor on the findings of the consultation. It is anticipated the responses will be provided to the Mayor in October 2010, appended to TfL's report on the outcomes of consultation as well as a Mayoral Decision Form. TfL will make the consultation responses available to the public, on request, once the Mayor has made his decision on whether or not to confirm the Variation Orders, anticipated for November.
- 2. TfL's analysis or reports arising from the consultation**
TfL continues to analyse the responses to the consultation and is preparing a report on the outcomes of consultation. TfL anticipates submitting its report on the consultation to the GLA in October. It is anticipated the Mayor will decide on whether or not to confirm the Variation Order, with or without modifications, in October / November. TfL will publish its Report to the Mayor on its website once the Mayor has made his decision.

4. AUTHORISATION:

Name of your line manager:	Lucinda Turner
Has this exception application been approved by your line manager/head of department?:	YES

5. EXCEPTIONS WHICH MIGHT APPLY: *(Please use the right-hand column to indicate which exceptions you think might apply to (all or part of) the information requested and complete the relevant page(s) of Appendix 1. An explanation of each exception can also be found in Appendix 1. Please note that only the exceptions most likely to be relied upon by TfL appear below. If these exceptions do not appear to meet your requirements, please contact IACT on extension 63222, or email: foi@tfl.gov.uk.)*

Regulation 12(4)(d)	Incomplete information	Page 3	YES
Regulation 12(4)(e)	Internal communications	Page 4	NO
Regulation 12(5)(a)	International Relations, defence, national security or public safety	Page 5	NO

Regulation 12(5)(b)	Justice or conduct of a criminal or disciplinary enquiry	Page 6	NO
Regulation 12(5)(c)	Intellectual property rights	Page 7	NO
Regulation 12(5)(d)	Confidentiality of proceedings	Page 8	NO
Regulation 12(5)(e)	Commercial confidentiality to protect an economic interest	Page 9	NO
Regulation 12(5)(f)	Protection of an individual's interests	Page 10	NO
Regulation 13	Personal data	Page 11	NO

CHECKLIST

Before submitting this form please ensure that you have:

- provided your full contact details;
- provided a copy of the original EIR request or given the exact wording of the request in section 2;
- provided a copy of the information you think is exempt (where practicable); and
- completed all relevant sections of Appendix 1 in full – including the public interest test.

Once completed, please send this form by email to foi@tfl.gov.uk, or fax to 020 7126 3185

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(4)(d) – INCOMPLETE INFORMATION

This exception applies to environmental information that is still in the course of completion, eg unfinished documents or incomplete data. However, it does not mean TfL can evade the obligation to make environmental information available merely by labelling documents 'draft'. It is important, where possible, to provide the applicant with information on when the unfinished document(s)/data will be completed.

Whether or not information is 'complete' will depend on the circumstances of the case. For example, an interim audit report on a major infrastructure project would not be considered complete until the required management actions are evaluated in a final audit report. Where a final version of a document exists, this exception cannot be used to refuse a request for an earlier draft version of the document, as any earlier draft is now considered a finished document.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. When TfL is producing a study or report it may be in the public interest for access to certain documents produced during the process (eg interim reports) to await completion of the study or report, so that analysis and interpretation can proceed unhindered. However, if a study is abandoned, any interim reports could be released once the decision to abandon the study has been made (subject to other exception and public interest considerations being taken into account).

1. DETAILS OF INCOMPLETE INFORMATION:

Please describe how and why this information is incomplete:	The consultation closed on 2 August. TfL is continuing to process the responses to the consultation and is preparing a report to the Mayor using the analysis of these responses. This will be submitted to the Mayor, accompanied by the consultation responses, in October. Following consideration of TfL's report and the consultation responses, the Mayor will make a decision on whether or not to confirm the Variation Orders (that were the subject of the consultation). Therefore, the information requested would be considered to be incomplete until the Mayor has considered the outcomes of the consultation and made his decision.
Estimated time in which the information will be finished or completed:	October.

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	<p>1. Information is intended for future publication</p> <p>TfL will present a report to the Mayor on the outcomes of consultation in October 2010, which will include the information requested in summary form. This will be made publicly available online following the Mayor's decision on whether or not to confirm the Variation Orders (that were the subject of consultation). The responses to the consultation will be passed to the Mayor, as will any late responses that cannot be included in TfL's report in summary form.</p> <p>At the same time as it published the Report to the Mayor on consultation, TfL will make the information requested (ie full copies of the responses) available to the public, on request, including to the applicant. In the case of responses from members of the public, businesses or other organisations, responses would be anonymised according to the DP statement included on TfL's WEZ consultation website. Stakeholder responses would not be anonymised unless a specific request had been made by the respondent.</p> <p>TfL considers there is sufficient time, information and mechanism for members of the public to scrutinise and challenge the Mayor's decision if the information requested is published shortly following the Mayor's decision.</p> <p>2. Information requested is incomplete</p> <p>TfL's analysis of the consultation responses is still ongoing. The data as it is at present could give a misleading impression of the overall response to the consultation, because the analysis is not complete and further responses are anticipated. In this case there is a need for interpretation and analysis to carry on</p>
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	<p>unhindered.</p> <p>It is in the public interest to preserve TfL's ability to report fully and effectively to inform the Mayor's decision. Releasing partially complete information out of context could negatively affect this. The responses to the consultation and any associated analysis and reports are currently without context and would not necessarily enable an accurate understanding of views about the proposals.</p> <p>Release of this information in advance of it being provided to the Mayor in TfL's report might prejudice his decision on whether or not to confirm the Variation Order. He should only consider and exercise his discretion on this matter when he is in possession of all the information.</p>
<p>Factors in favour of disclosing:</p>	<p>Could add to respondents' understanding of views about the proposals in the short term. However, TfL will be publishing its report to the Mayor, including a summary of stakeholder responses to the consultation, and will make all consultation responses available to the public on request, following the Mayor's decision on whether or not to confirm the Variation Orders.</p>
<p>I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES</p>	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(4)(e) – INTERNAL COMMUNICATIONS

This exception may apply to environmental information contained in any “internal communication” created by and distributed within TfL. It may also apply to information created and exchanged between TfL and the Mayor’s Office (where the communication is to or from the Mayor in his capacity as Chair of the TfL Board). It is intended to provide some protection for the “private thinking space” of decision-makers and to guard against the risk of the disclosure of advice or other information provided by other colleagues which might, wrongly, be taken to represent an official view.

This exception can apply to information in any form, including: memos; notes of meetings; emails; spreadsheets; internal minutes; briefs and reports by inspectors or consultants (depending on the contractual relationship) instructed by or reporting to TfL.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. TfL must be satisfied that: (i) disclosure would cause some harm (eg by misleading the public or making the formulation of policy difficult) and (ii) there is not a stronger public interest in increasing public input into the formulation of policy. This ensures that the right balance is struck between disclosing information to enable proper public participation in policy debates, and providing public authorities with the space they need in which to do their work best. This balance is sometimes properly struck by making available relevant statistical and factual information which are found in “internal communications” even where other parts of the “internal communication” are withheld.

1. DETAILS OF THE INTERNAL COMMUNICATIONS:

How would disclosure prevent decision-making and/or the development of policy from proceeding effectively?	
How would disclosure harm or disrupt TfL’s ability to conduct its core business?	

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	

I am satisfied that the public interest is best served by withholding this information (delete as appropriate): **YES / NO**

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(a) – INTERNATIONAL RELATIONS, DEFENCE, NATIONAL SECURITY OR PUBLIC SAFETY

This exception applies to environmental information where disclosure would adversely affect international relations, defence, national security or public safety. The areas of national security and public safety are likely to be of potential relevance to environmental information held by TfL.

National security – It’s possible that some environmental information about London’s transport infrastructure could require protection for reasons of national security. For example, if disclosed, geographical information contained within emergency contingency plans could clearly be used in the planning of an act of sabotage.

Public safety – This aspect of the exception may apply to environmental information that, if disclosed, would endanger the safety of the public, ie someone’s physical or psychological, health and/or safety. It is necessary to demonstrate that releasing the information would put the health, or personal safety, of one or more individuals at risk.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. In all of these areas, when applying the public interest test to establish whether the information should be released or withheld, the sensitivity of information may be expected to diminish over time although this is not always the case.

***Neither confirm nor deny** – In the interests of international relations, defence, national security or public safety TfL may refuse to either confirm or deny whether the requested information is even held, if to do so would be against the public interest.*

1. DETAILS OF ADVERSE AFFECT:

How is the information relevant to national security or public safety?	
Describe the adverse affect of disclosure:	

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	

I am satisfied that the public interest is best served by withholding this information (delete as appropriate): **YES / NO**

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(b) – JUSTICE OR CONDUCT OF A CRIMINAL OR DISCIPLINARY ENQUIRY

This exception applies to environmental information which, if disclosed, would adversely affect:

- *the course of justice (including law enforcement);*
- *the ability of a person to receive a fair trial; or*
- *the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.*

It may include information which if disclosed, would prejudice the enforcement or proper administration of the law, including: the prevention, investigation or detection of crime, or the apprehension or prosecution of offenders.

*This exception also covers environmental information protected by **legal professional privilege** in the same way the section 42 exemption of the Freedom of Information Act does (see 'FOI Exemption Application Form' for guidance on the two categories of legal professional privilege).*

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it.

1. DETAILS OF INVESTIGATION/PROCEEDINGS/ENQUIRY/LEGAL PRIVILEGE:

Summary of the investigation, proceedings, enquiry or legal privilege to which the information relates:	
Summary of the adverse effect which would result from the disclosure of the information requested:	

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(c) – INTELLECTUAL PROPERTY RIGHTS

This exception applies to environmental information which, if disclosed, would adversely affect intellectual property rights (of TfL or any other party). Intellectual property rights do not necessarily prevent TfL releasing the information it holds; however, where information subject to such rights is disclosed, it should be made clear to those requesting it, that this is the case.

Any intellectual property rights, including those over copyright protected material, a patented design or a trade secret, may be protected by this exception where an adverse effect from disclosure can be reasonably anticipated and where the public interest in disclosure does not outweigh those adverse effects. [Regulation 12\(5\)\(e\)](#) may also be relevant in cases where this exception might apply. The exception should only be applied where there is a real risk that the disclosure (or further dissemination after disclosure) would seriously undermine the rights concerned. If the information would enjoy protection even after disclosure, from the Copyright Designs and Patents Act for instance, the case against disclosure would be considerably weaker.

An examination of the public interest test is also necessary with this exemption. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it.

1. DETAILS OF INTELLECTUAL PROPERTY RIGHTS:

Identity of the owner(s) of the intellectual property rights concerned:	
Summary of the intellectual property rights in the material (eg copyright, patent, trade secret):	
Summary of the adverse effect which would result from the disclosure of the information requested:	

2. PUBLIC INTEREST TEST: *((Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(d) – CONFIDENTIALITY OF PROCEEDINGS

If the information relates to **emissions** into the environment then this exception **cannot be used**. Emissions includes discharges and other releases into the environment and should be taken to include the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources into or onto air, water or land

This exception applies to environmental information where its disclosure would adversely affect the confidentiality of the proceedings of any public authority where such confidentiality is provided by law. The proceedings in question may include a range of investigative, regulatory and other activities carried out according to a statutory scheme.

Confidentiality may be provided either by explicit statutory restrictions on disclosure or by the common law. To be confidential under common law, information must have the necessary quality of confidence and must not be publicly available. It must also be held subject to a duty of confidence. The marking of documents as 'Confidential' should be taken only as indication of the sensitivity of the contents and does not automatically mean that the environmental information contained within should not be disclosed.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. In effect, TfL must consider whether, despite a prohibition or restriction, there is an overriding public interest in disclosure.

1. DETAILS OF PROCEEDINGS:

Does this information relate to emissions into environment (delete as appropriate):		YES/NO
Nature of the proceedings that would be affected:		
Details of why the information held is subject to a duty of confidence:		
How would disclosure adversely affect the confidentiality of the proceedings?		

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(e) – COMMERCIAL CONFIDENTIALITY TO PROTECT AN ECONOMIC INTEREST

If the information relates to **emissions** into the environment then this exception **cannot be used**. Emissions includes discharges and other releases into the environment and should be taken to include the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources into or onto air, water or land

This exception applies to environmental information where its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. As with the exception covering confidentiality of proceedings (Regulation [12\(5\)\(d\)](#)), in this context confidentiality may be provided either by explicit statutory restrictions on disclosure or by the common law.

Information covered by this exception will include a range of commercially sensitive information such as trade secrets, contract details where the contract relates to activities likely to affect the environment (eg waste disposal), information supplied as part of a tendering or procurement process and information held by regulators.

Commercial confidentiality may be acknowledged in the terms of a contract, but merely stating in a contract that certain information is confidential does not mean that this exception can be invoked – it must also relate to the protection of legitimate economic interests.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. Generally, the protection of information under this exception should be limited to the minimum time necessary to safeguard the commercial or industrial interest. When circumstances change, the information may cease to be sensitive.

1. COMMERCIAL CONFIDENTIALITY:

Does this information relate to emissions into the environment (delete as appropriate):		YES/NO
Details of the economic interest at risk:		
Why is the information commercially confidential?		
Describe the adverse effect of disclosing this information:		

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 12(5)(f) – PROTECTION OF AN INDIVIDUAL'S INTERESTS

If the information relates to **emissions** into the environment then this exception **cannot be used**. Emissions includes discharges and other releases into the environment and should be taken to include the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources into or onto air, water or land

This exception applies to environmental information to the extent that its disclosure would adversely affect the interests of the person who provided the information, where that person:

1. *was not under any legal obligation to supply it to TfL or any other public authority;*
2. *did not supply it in circumstances where TfL or any other public authority is entitled (apart from under these Regulations) to disclose it; and*
3. *has not consented to its disclosure.*

The purpose of this exception is to ensure the free flow of volunteered information to public authorities, for example for collecting certain types of statistical data and conducting sample surveys and in consultation exercises. It could include information provided by organisations and individuals who are not public authorities for EIR purposes. However, such bodies may themselves have made some of their information available to the public, in which case such information should be clearly identified as being in the public domain.

This exception is not likely to apply to members of the public when applying for licences, permits and grants where the information is specifically required by legislation as part of the application.

An examination of the public interest test is also necessary with this exception. This means you need to explain how the public interest in withholding the information outweighs the public interest in releasing it. Regard should be given to the purpose of this exception. It recognises that making such information available to the public could inhibit open and constructive discussions between TfL and third parties. It is recognised therefore that the supply of volunteered information could diminish if information is later published in response to EIR requests. Interests to consider may include continued access to information from third parties or financial support for their activities in collecting, collating or disseminating information.

1. DETAILS OF PERSON WHO PROVIDED INFORMATION:

(i) Was the information provided voluntarily? (delete as appropriate):	YES/NO
(ii) Is there a specific power that entitles TfL to disclose the information? (delete as appropriate):	YES/NO
(iii) Has the supplier of the information consented to its disclosure? (delete as appropriate):	YES/NO
Describe how disclosing this information would adversely affect the interests of the person who provided it:	
Does this information relate to emissions into the environment (delete as appropriate):	YES/NO

2. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 1

REGULATION 13 – PERSONAL DATA

This exception applies to elements of environmental information that can be categorised as personal data about a living individual. Personal data is information that affects a person's privacy, whether in their personal or family life, business or professional capacity. Where it is unclear if information relates directly to an individual, it is necessary to consider whether or not: (i) the information in question is capable of having an adverse impact upon them; (ii) whether the information is biographical in a significant sense (ie not just recording their involvement in something which has no personal connotations) and (iii) whether the information has the individual as its focus (rather than some other person with whom they may have been involved, or some transaction or event in which they have figured or had an interest).

*If someone is asking for **their own** personal information, such a request will need to be processed by IACT as a 'subject access request' under the Data Protection Act 1998.*

While it is right to take into account any damage or distress that may be caused to a third party by the disclosure of personal information, the focus should be on damage or distress to an individual acting in a personal or private capacity. In relation to employees a distinction can be drawn between professional information (eg job titles or responsibilities) and genuinely personal or sensitive work related information (eg reasons for sickness absence). An employee's seniority (including level of responsibility and public accountability) may also be relevant when considering whether to disclose certain information (eg their name or remuneration).

1. PERSONAL INFORMATION INVOLVED:

Whose personal information will be disclosed?	
Why should the information be categorised as personal data?	

2. WHY WOULD DISCLOSURE BE UNFAIR?

Please explain how the disclosure of the personal data would be unfair to the individual who is the subject of the data. When carrying out this assessment consider factors such as:

- *Does the information relate to a person in their public or private capacity? The more private the information, the stronger the argument for applying the exemption.*
- *Would disclosure cause damage or distress to the individual or another person? If so, there is likely to be quite a strong argument in favour of applying the exemption.*
- *Is the information already in the public domain? If it is, the argument for withholding it now is significantly weakened.*
- *Would disclosure be compatible with the purposes for which the information was obtained in the first place?*

Why would it be unfair to the individual to release their personal data:	
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3. PUBLIC INTEREST TEST: *(Please provide detailed reasoning to show how the public interest in withholding the information outweighs the public interest in releasing it. See [Appendix 2](#) for additional guidance on carrying out this assessment)*

Factors in favour of withholding:	
Factors in favour of disclosing:	
I am satisfied that the public interest is best served by withholding this information (delete as appropriate): YES / NO	

EXCEPTION APPLICATION FORM

APPENDIX 2

GUIDANCE ON CONDUCTING THE PUBLIC INTEREST TEST

In effect, something “in the public interest” is simply something which serves the interests of the public. When applying the test, TfL is simply deciding whether it serves the interests of the public better to withhold or to disclose information. The public interest is multi-faceted and can encompass, for example, the interests of individuals, companies and special interest groups – whose particular interests may not coincide.

1. PUBLIC INTEREST CONSIDERATIONS IN FAVOUR OF DISCLOSURE:

- *The EIR creates a presumption that disclosure of environmental information held by public bodies is generally in the public interest. This means that if the arguments are evenly balanced for withholding and disclosing information, the information must be disclosed.*
- *Public understanding and awareness – would disclosure help people understand decisions made by TfL which affect their lives or bring to light environmental information affecting public health and safety?*
- *Public participation – would disclosure facilitate a more informed debate about topical issues currently under consideration by TfL?*
- *Accountability – would disclosure promote accountability and transparency by TfL for its decisions and actions, particularly in relation to the expenditure of public funds? (eg disclosing information regarding the private sector delivery of public services to ensure greater competition and better value for public money.)*

2. PUBLIC INTEREST CONSIDERATIONS AGAINST DISCLOSURE:

Examples of when it may be in the public interest to withhold environmental information include:

- *Getting value for public money – would disclosing environmental information affect TfL’s bargaining power with present or future service providers and therefore hinder its ability to obtain best value for money (which is ultimately from the public purse)?*
- *Required “thinking space” – would disclosure stifle TfL’s internal “thinking” processes? If disclosure would lead to less candid discussions and less robust documentation of those discussions due to the fear of internal ideas (which may sometimes be difficult or controversial) being put in the public domain, then this would be detrimental to the quality of TfL’s decision making.*
- *Public health and safety – would disclosure be likely to seriously endanger any person’s physical or psychological health or safety?*

3. INVALID REASONS FOR WITHHOLDING ENVIRONMENTAL INFORMATION:

- *Embarrassment would be caused or incompetence would be revealed.*
- *The environmental information is too complex for the public to understand.*
- *Protective marking of documents – these can merely act as guidelines; a ‘confidential’ marking does not necessarily mean the environmental information can be withheld as information provided in confidence or commercially sensitive.*
- *The information is draft/incomplete, confusing or misleading – this can be avoided by providing additional explanatory information or background context.*

4. WHEN COMPLETING THE FORM:

Please provide detailed reasons both FOR and AGAINST disclosing the environmental information, so that IACT can make a fully informed decision and support the reasoning behind it in the event of a complaint which leads to an internal review or investigation by the Information Commissioner’s Office.

EXEMPTION APPLICATION FORM

APPENDIX 3

EXTENDING THE DEADLINE

TfL should aim to respond fully to all EIR requests within 20 working days. However, where the request is considered complex and covers a large volume of information, it may be reasonable to extend this deadline – but in no case should the total time taken to respond exceed 40 working days.

Any request to extend the deadline must be submitted to IACT within 10 working days of the original request being received by TfL.

If an extension is approved, the requester will need to be informed of the new deadline and the reasons why the deadline has been extended.

Explanation of why the request is particularly complex:	
Details of the quantity of information involved (<i>please be specific – eg how many documents/files are relevant to the request?</i>):	
Date response is due:	
Date you wish to extend the deadline to (must be within 40 working days of the request being received):	