

Date: 14 December 2017

Item: Legal Compliance Report (1 April 2017 – 30 September 2017)

This report will be considered in public

1 Summary

1.1 This paper summarises the information provided by each TfL Directorate for the Legal Compliance Report for the period 1 April 2017 to 30 September 2017.

2 Recommendation

2.1 **The Committee is asked to note the report.**

3 Background

3.1 The Legal Compliance Report is compiled from information supplied through questionnaires completed by each TfL Directorate and follow up discussions concerning known legal compliance issues.

4 Scope of the Report

4.1 The Directorates were asked to identify where they are aware of any alleged breaches of law between 1 April 2017 and 30 September 2017. The questionnaire sought responses concerning the following:

- (a) prosecutions against TfL;
- (b) formal warnings or notices from the Health and Safety Executive, the Office of Rail and Road, the London Fire and Emergency Planning Authority, the Environment Agency, the Information Commissioner or other Government Agencies;
- (c) investigations by an Ombudsman;
- (d) alleged legal breaches notified by Local Authorities or other bodies;
- (e) judicial reviews;
- (f) involvement in inquests;
- (g) commercial/contract claims in excess of £100,000;
- (h) personal injury claims;
- (i) proceedings in relation to discrimination on the grounds of race, sex, disability, age, religion or belief, sexual orientation, equal pay or breach of contract;

- (j) wrongful or unfair dismissal;
 - (k) actions to recover unpaid debt in excess of £5,000;
 - (l) breaches of EU/UK procurement rules and/or the Competition Act;
 - (m) other material breaches of the law;
 - (n) any other material compliance issues; and
 - (o) any initiatives introduced by Directorates to address compliance issues.
- 4.2 The reporting periods for the tables included in this report follow the six monthly Legal Compliance reporting periods from April to September and October to March. Tables are included where there is sufficient data from which to consider any trend analysis. The tables commence in the reporting period covering October 2013 – March 2014. Each period includes any ongoing matters carried over from previous reporting periods where applicable. Any new matters appear in blue font. In accordance with TfL's commitment to transparency, the legal compliance report is included in this public paper.

5 Commentary on Legal Compliance Issues

Notification of Intention to Prosecute

- 5.1 No notices were reported for this period.

Formal Warnings or Notices from the Health and Safety Executive (HSE) or Office of Rail and Road (ORR)

- 5.2 Surface Transport previously reported an incident on the A40 in November 2011, in which a motorcyclist was injured as a result of temporary bridging plates installed over defective expansion joints on the A40 Westway. The HSE investigation is still ongoing and no formal warnings or notices have been issued to date.
- 5.3 London Underground was issued with an Improvement Notice on 17 July 2017 by the ORR in relation to assessing the risks to station staff from lone working following an investigation of a fatality at Canning Town Station on 22 January 2017. The notice required London Underground to put in place arrangements to effectively implement control measures identified as necessary for safe lone working by staff at stations. London Underground has carried out a risk assessment on lone working and the implementation of control measures is in progress.
- 5.4 Since the end of the reporting period an inquest into the cause of death has taken place. On 16 November 2017 the inquest gave a narrative conclusion and the Coroner has issued a Prevention of Future Report to London Underground regarding processes to be put in place to prevent another incident in the future.

Formal Warnings or Notices from the London Fire and Emergency Planning Authority (LFEPA)

- 5.5 London Underground reported one notice received in August 2017 under the Regulatory Reform (Fire Safety) Order 2005 requiring the rectification of fire safety deficiencies for Oxford Circus Station by 24 October 2017. London Underground has addressed all the safety deficiencies raised and carried out an review at three high capacity stations within the timescale. LFEPA have confirmed that no further action is required.

Formal Warnings or Notices from the Environment Agency

- 5.6 No formal warnings or notices were reported for this period.

Environment Agency Formal Warnings/Notices

	Reporting Period							
	10/13-3/14	04/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Surface Transport		4			1	1	2	
Underground	1		1		5			

Formal Warnings or Notices from the Information Commissioner

- 5.7 The Information Commissioner's Office (ICO) investigates alleged instances of non-compliance with the Data Protection Act 1998 (the DPA), the Freedom of Information Act 2000 (the FOIA), the Environmental Information Regulations 2004 (the EIRs) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the PECR).
- 5.8 No formal action was taken by the ICO between 1 April 2017 and 30 September 2017 in connection with TfL's compliance with the DPA or the PECR.
- 5.9 During this period, the ICO notified TfL of four new complaints from individuals who considered that TfL had failed to process their personal data in accordance with the DPA.
- 5.10 The first new complaint concerned a complaint by a former employee that TfL breached the DPA in accessing information about convictions in connection with a DBS check and that TfL was holding inaccurate data relating to the declaration of an unspent conviction. The ICO found in favour of TfL, concluding that its processes for accessing DBS data were fair and lawful and that the data appeared to be accurate.
- 5.11 The second new complaint arose in connection with a subject access request (SAR) where the requester considered that TfL had not provided all relevant data. Further personal data was located and released to the requester. The ICO required no further steps to be taken.
- 5.12 The third new complaint arose in connection with a SAR for London Underground CCTV footage. The customer raised three issues with the ICO about TfL's handling of the SAR: a) failure to use the customer's existing payment card data to confirm his identify and locate the relevant footage; b) the refusal of his request

to pay the fee by bank card; and c) TfL's view that searching for the requester's correspondence could involve disproportionate effort. The ICO did not find any breach but made some best practice recommendations for TfL to improve its request handling arrangements. No further action was required.

- 5.13 The fourth new complaint related to TfL's practice of retaining personal data on fare evaders for seven years. TfL has sent a response explaining its data retention practices relating to penalty fares and a response from the ICO is awaited.
- 5.14 There were also two outstanding data protection complaints from the previous reporting period, the outcomes of both of which were included in the previous report.
- 5.15 The first outstanding complaint related to the inappropriate disclosure of an employee's sensitive personal data. The ICO found that TfL had breached the DPA with respect to the disclosure to a trade union representative and that in future TfL should contact data subjects where the data subject's wishes on disclosure are considered ambiguous. However the ICO required no further action.
- 5.16 The second outstanding complaint concerned inaccurate data being held on TfL's systems in relation to a customer's contactless payment card, which was incorrectly identified as having failed a revenue protection inspection. TfL acknowledged that the data was inaccurate but that it was not technically possible to delete the data from the system. The ICO found that where this is the case TfL should ensure that a letter is retained on the complainant's account confirming that there is inaccurate data that cannot be removed.
- 5.17 During this reporting period there were no data protection breaches that required TfL to notify the ICO.
- 5.18 The FOIA and the EIRs give a general right of access to information held by public authorities. Public authorities are generally required to respond to requests for information within 20 working days and provide the requested information unless an exemption applies. Any person who has made a request to a public authority for the disclosure of information under the FOIA or the EIRs can apply to the ICO for a decision on whether a request has been dealt with in accordance with the FOIA or EIRs. Appeals against the ICO's decisions are heard by the First-Tier Tribunal (Information Rights).
- 5.19 TfL received 1542 requests under the FOIA and EIRs between 1 April 2017 and 30 September 2017, and responded to 91.9 per cent of such requests within the statutory time limit.
- 5.20 The ICO monitored our performance on FOI and EIR requests received between 1 July and 30 September 2017, as a result of a number of complaints received regarding overdue replies to requests made in 2016 and following a dip in our performance in the second half of 2016. During the monitoring period TfL replied to over 92 per cent of all requests within the statutory deadline. Since the end of the reporting period, the ICO has confirmed that they are no longer monitoring our FOI performance as they consider that we demonstrated over the monitoring period that a good level of performance was being maintained with requests received between July and September and requests for internal reviews of earlier FOI replies.

- 5.21 Four complaints to the ICO relating to FOI and EIR requests were open at the end of the last reporting period. The first related to the adequacy of a search for information held regarding payments to taxi schools. The ICO determined that TfL had met its obligations under the FOIA and issued a Decision Notice to that effect. A second complaint regarding the refusal of a request for the disclosure of legal advice about a planning matter connected with the Northern Line Extension was withdrawn by the complainant. In the third complaint, regarding the refusal of a request for a draft business case during a consultation about proposed changes to bus services, a Decision Notice was issued which found that TfL had correctly applied an exemption on the grounds that the information was intended for future publication. In the fourth complaint, regarding the refusal to disclose detail of the outturn costs of completed Crossrail contracts on the grounds of commercial sensitivity, Crossrail decided to release the information requested and no further action was taken.
- 5.22 During this reporting period TfL was notified by the ICO of 14 new complaints regarding TfL's handling of FOIA and EIR requests. Four complaints remain open, these relate to whether TfL holds a list of wheelchair accessible taxis under the Equality Act 2010; the refusal of a request for the disclosure of projected costs and revenues for the ULEZ scheme on commercial confidentiality grounds; a refusal on cost grounds to answer a request requiring the review of over 2000 emails; and the refusal of a request for detailed pricing information under the London Highways Alliance contracts.
- 5.23 Ten of the new complaints were closed during this period. Four complaints related to delayed responses to correspondence by email or tweet which were not considered to be FOI requests. TfL has provided guidance to the social media team and the contact centre, who are monitoring correspondence for potential FOI requests. TfL has advised the ICO of the steps taken and no further action is required. One Decision Notice was issued by the ICO, which upheld TfL's refusal to disclose the number of vehicles used by each private hire vehicle operator. The ICO agreed that this information was provided to TfL in confidence. Two complaints were withdrawn; one regarding the accuracy of data held about the ethnicity of taxi drivers in 2015, the other regarding clarification on whether TfL held information about roadworks on the A406. Three complaints related to late responses to FOI requests and resulted in Decision Notices being issued which found that TfL had not complied with the statutory deadline. One request had been answered before TfL had been notified of the complaint and the other two have now been answered.

Information Commissioner Formal Warnings/Notices

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Commercial Development							1	
Customer, Communication and Technology								1
Finance								
General Counsel	1					1	1	
Group HR			1			1		
Planning	1							
Rail		1						
Surface Transport	2	4	1	3	1	2		5
Underground					1			
Crossrail								

Formal Warnings or Notices from any other Government Department or Agency Indicating a Breach of Law

5.24 No warnings or notices were reported for this period.

Investigation by an Ombudsman

5.25 Surface Transport reported two outstanding investigations from the last report and five new investigations. The outstanding investigations relate to complaints of bus drivers leaving engines running at a bus stand near a complainant's home and the administration of an application to complete a Knowledge examination. The five new investigations relate to changes made to a bus route near the complainant's home; a request to access data held by a third party; TfL's refusal to provide compensation for damage to a vehicle caused by a London bus; an appeal of a penalty fare; and the consultation process and change to design of the Cycle Superhighway.

5.26 In the first outstanding investigation, at the time of the last report TfL was monitoring the bus stand but the complaint was escalated to the LGO. TfL provided the LGO with copies of the correspondence and details of what has been done to address the complaint. The LGO recommended more frequent monitoring of the stand.

5.27 In the second outstanding investigation, having complied with the LGO's request to provide information TfL awaits the outcome.

5.28 The LGO decided not to investigate the first new complaint, as they concluded that they were unlikely to find evidence of fault in how TfL made the decision to introduce changes to the bus route.

- 5.29 The LGO also decided not to investigate the second new complaint, as it could be referred to the ICO.
- 5.30 In the third new investigation, the LGO concluded that as the matter concerns damage to property it would be best suited for determination by the courts.
- 5.31 In the fourth new investigation, the LGO asked TfL to consider the penalty fare that was issued and to investigate the claim that the Revenue Inspector mixed up the customer's details with another customer. Following the investigation it was found that the customer did not touch the Oyster card onto the bus and it was the correct procedure to issue a penalty fare. The complaint was dismissed and the customer was liable to pay the penalty fare.
- 5.32 In the fifth new investigation, the LGO denied the complaint as it was satisfied with the manner in which TfL had conducted the consultation.

Investigations by Ombudsman

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Rail	1							
Surface Transport	4	4	4	3	3	5	8	2+5

Notices Received Regarding any Alleged Breach of Law by a Local Authority or Other External Agency

- 5.33 Planning reported five outstanding Enforcement Notices from the previous reporting period and three new notices in the current period. The first outstanding notice (received on 25 October 2013) was a Decision Notice on an Enforcement Appeal regarding the installation of a new shopfront, awning and roller shutter at 42-43 Haven Green. Since the last reporting period, TfL has received confirmation from the Enforcement Office that the required work in compliance with the Notice has been completed. The matter is now closed.
- 5.34 The second outstanding notice (received on 25 February 2014) was an Enforcement Notice from London Borough of Haringey relating to an unauthorised front extension to units on 231-243 High Road and 249a High Road Tottenham. The tenant failed to remove the extension by 31 July 2014 as required by the Notice. TfL wrote to the tenant to remind them of their lease obligations and the risk of prosecution by the London Borough of Haringey. The tenant lodged an appeal with the Planning Inspectorate. The Enforcement Notice remains stayed while a property management company prepares proposals for the frontages of the properties and all the adjacent properties.
- 5.35 The third outstanding notice (received on 22 July 2016) from London Borough of Lambeth, relates to the unauthorised use of a site and use of roller shutters at 20A Atlantic Road and Electric Road. The tenancy was terminated and the site has been vacated. The Enforcement Officer has now confirmed that the matter has been closed.

- 5.36 The fourth outstanding notice (received on 30 September 2016) from London Borough of Tower Hamlets, relates to a development at Shadwell station which it is claimed does not meet a requirement in the planning permission. Following discussions with the developer the works have commenced in accordance with the planning permission. TfL is satisfied with the work that has been carried out and the matter is closed.
- 5.37 The fifth outstanding notice (received on 1 March 2017) relates to the installation of a shipping container and the material change of use (from operational to retail) over Clapham Common Deep Tube Shelter. TfL has written to the tenant to remind them of their lease obligations with regards to the sub-tenant. The sub-tenant has ceased trading. TfL has now received confirmation from the Enforcement Office that the matter is closed.
- 5.38 The first new Enforcement Notice (received on 20 April 2017) from London Borough of Tower Hamlets is in relation to the material change of use to a shisha club at 568A Mile End Road. TfL is in correspondence with the London Borough of Tower Hamlets.
- 5.39 The second new Enforcement Notice (received on 14 August 2017) is in relation to change of use of the underground tunnels from storage to the growing of plants at Clapham North Deep Tube Shelter. TfL has written to the tenant to remind them of their lease obligations and is monitoring the matter.
- 5.40 The third new Enforcement Notice (received on 14 August 2017) from London Borough of Harrow is in relation to the change of use to a minicab office at 251 – 253 Preston Road, Harrow. TfL has written to the London Borough of Harrow to inform them that the premises are tenanted and it is the responsibility of the tenant to seek planning permission. TfL is monitoring the matter.
- 5.41 Surface Transport reported a warning received in June 2017 from the Home Office regarding the right to work of a casual traffic enumerator. TfL have implemented an automatic checking system within the casual staff payroll system to avoid a recurrence. The matter is closed.
- 5.42 London Underground reported two new Enforcement Notices received under the Prevention of Damage by Pest Act 1949 from the City of London. One was received in May and another in July 2017 in relation to waste material which is likely to provide food and/or harbourage for rodents at 50-51 Aldgate High Street and Dagenham East station. The notices required the removal of waste and the implementation of pest control measures within 28 days of the notice. All requirements of the notices have been complied with and the matter is closed.
- 5.43 London Underground also reported a Fixed Penalty Notice received 21 July 2017 from the City of Westminster under the Environmental Pollution Act 1990 section 33, for rubbish due for collection obstructing the highway at Marble Arch station – Oxford Street entrance. The rubbish was cleared and the penalty paid and the matter is closed. A new local procedure was implemented at this station and the adjacent station to prevent a recurrence.
- 5.44 Commercial Development received an Enforcement Notice on 8 June 2017 from Westminster City Council in relation to the poor state of repair/ missing brickwork on the façade at 9-21 Spring Street, W2. The notice requires TfL to carry out repairs by replacing the missing bricks with matching replacements within 8

weeks of the date of the notice. TfL has commenced the works and informed tenants to seek consent from TfL before erecting signboards directly on the building in order to prevent future damage.

Alleged Breaches of Law by a Local Authority/Other External Agency

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Commercial Development								1
Finance	1							
Planning	5	6	6	6	7	9	7	5 +3
Underground		1						3
Surface Transport								1

Decisions Subject to a Judicial Review

- 5.45 Surface Transport previously reported that Eventech Limited (a subsidiary of Addison Lee) was granted permission to bring a judicial review against the London Borough of Camden's Parking Adjudicator's decision not to allow Private Hire Vehicles (PHV) the same rights as Hackney licensed vehicles to use bus lanes. In April 2012, TfL successfully obtained an injunction preventing Addison Lee from causing, encouraging or assisting PHV drivers to use bus lanes marked for use by taxis. The Court also declared the indemnity Addison Lee had offered to drivers in respect of bus lane fines and liabilities to be void and unenforceable. The hearing took place on 19-21 June 2012 and the application was refused on all grounds and Eventech Limited was ordered to pay TfL's costs of defending the claim.
- 5.46 Eventech Limited then made an application for permission to appeal the decision and this was granted on 6 December 2012. The Court of Appeal hearing took place on 23 and 24 May 2013. On 29 September 2013 the Court of Appeal issued an Order referring the State aid questions raised to the European Court of Justice (ECJ). The appeal was adjourned pending the outcome of the ECJ hearing which was held on 3 July 2014. On 24 September 2014, the Advocate General, who represents the EU's interests, issued its opinion to the ECJ. The Opinion concluded that if TfL could show that black cabs and PHVs are not legally and factually comparable on grounds of safety and efficiency (which the Advocate General suggested may well be the case), no question of State aid would arise by allowing taxis but not PHVs to use the bus lanes during certain hours of the day.
- 5.47 On 14 January 2015, the ECJ gave its judgment on the State aid issues. The ECJ's decision concluded that making bus lanes available to taxis and not PHVs in order to establish a safe and efficient transport system does not appear of itself to amount to State aid. The judgment also states that the policy may conceivably affect State trade but this finding alone would not affect the conclusion overall that the policy does not appear to the ECJ to give rise to State aid.
- 5.48 The Court of Appeal now has to determine the State aid issue (which must take into account the ECJ's ruling) and whether the policy breached freedom of movement of services and the principle of equal treatment. Eventech's appeal

proceedings are stayed to allow the parties to mediate with a view to the claim being withdrawn. Since the end of the reporting period, Eventech has withdrawn its appeal and the appeal has been dismissed. The matter is now closed.

- 5.49 Surface Transport previously reported an application for a judicial review made by Uber London Limited. Uber and three private hire drivers sought permission for a judicial review of changes to private hire regulations including the telephone requirement (for which it also sought an injunction) as well as requirements relating to English language skills, insurance and operating model changes.
- 5.50 A hearing took place from 28 February 2017 to 2 March 2017 and the Court decided that the English Language Requirement as implemented was justified and lawful and that the Telephone Requirement as implemented was not justified but a requirement for passengers to speak with operators in emergency situations would be appropriate. TfL agreed to review the Insurance Requirement in light of the information brought to light during the hearing about the role of the Motor Insurance Bureau in compensating victims of uninsured accidents.

Judicial Reviews of decisions by TfL¹

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail			1	1		1	1	1+1
Customer Communication and Technology	2	1	1	1	1	1		
Finance	1							
Planning			1					
Surface Transport	1	2	1	2	3	4	3	2
Underground	1		1		1	1	1	1

Inquests

- 5.51 London Underground has been involved in 74 inquests, 27 have been carried forward from the previous report. 47 new London Underground inquests are included in this report for the first time.
- 5.52 Of the 27 inquests carried forward from the previous report, three were accidents, nine were suicides, two open conclusions, two were narrative conclusions, ten are awaited and one was reported as not occurring on a London Underground property. Of the 47 new inquests reported, 15 were suicides, four were open conclusion, two were accidents and 26 are awaited.
- 5.53 Surface Transport reported 101 outstanding inquests from the last report and 54 new inquests included in this report for the first time. London Rail inquests are now reported as part of Surface Transport inquests.

¹ Judicial Reviews in which TfL is an interested party are not included in the table.

- 5.54 Of the 101 outstanding inquests, 51 inquests were adjourned pending the outcome of criminal proceedings or police investigations, 17 are awaited, seven were road traffic collisions, six accidental deaths, two required no inquest due to criminal proceedings, 12 await the Coroner's decision on whether to resume the inquests, one was open conclusion, four were suicide and one was a medical episode.
- 5.55 Of the 54 newly-reported matters, 42 inquests were adjourned pending the outcome of police investigations, eight are awaited, one was an open conclusion, one was a suicide, one was an accidental death and one is awaiting the Coroner's decision on whether to resume the inquest.

Inquests

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail	1	2						
Surface Transport	11	12	13	13	57	79	101 53 + 48	155 (101 + 54)
Rail	2	3	3	1	1	7	7 4 + 3	
Underground	30	32	21	29	35	31	46 22 + 24	74 (27 + 47)

Inquest Findings

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Other	1	1	1	2	5	7		5
Narrative		1		1	2	1	1	2
Self-harm	5							
Misadventure		1		1				
Open Verdict	4	2	2	2	1	3	5	8
Accidental	6	8	4	3	5	18	7	19
Suicide/ took own life	2	11	13	6	17	8	14	29

Commercial / Contract Claims Brought by or Against TfL in Excess of £100,000 (Not Including Personal Injury Claims)

- 5.56 In the previous report, Surface Transport reported one claim from a contractor under the London Highways Alliance Contracts in relation to restrictions on working on the Transport for London Road Network. Proceedings were issued by the contractor on 6 March 2017. The hearing is scheduled for 4 to 6 December 2017.

- 5.57 On 9 September 2016 the TfL Trustee Company Limited, TfL's pension trustee subsidiary, issued proceedings against HMRC for overpaid VAT on fund management services. A stay of the proceedings has been agreed, pending the outcome of two test cases, one of which is currently being considered by the courts.
- 5.58 Crossrail previously reported a claim made by a land owner (previous incorrectly reported as a contractor) in May 2016 alleging negligent misstatement in relation to a Helpdesk enquiry relating to safeguarding. Legal proceedings have been issued in the High Court and a hearing date is awaited.
- 5.59 Customers, Communication and Technology reported that TfL issued proceedings against Visa and MasterCard in August 2016 in the High Court and separate but related proceedings against MasterCard in September 2016 in the Competition Appeal Tribunal in relation to Multi-lateral interchanges fees (MIFs). TfL is charged MIFs by Visa and MasterCard on all credit card transactions. The claims are on the same basis as many other claims which have been brought by other organisations in the US and the UK on the basis that the MIF arrangements unlawfully restrict competition and are anti-competitive. The proceedings have been stayed pending the outcome of a number of test cases which are currently being considered by the courts.

Commercial/ Contract Claims

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail							1	1
Finance						1	1	1
Surface Transport					1	2	1	1
Underground		1			1	2	1	
Customers Communication and Technology							1	1

Personal Injury Claims

- 5.60 London Underground has been the subject of 231 claims for personal injury that were closed during the reporting period, of which 38 claims were employers' liability claims by staff and 193 claims were for public liability by customers/members of the public.
- 5.61 Of the 193 claims for public liability, 139 were closed without payment and 54 were settled.
- 5.62 Of the 38 claims for employers' liability, 17 were closed without payment and 21 were settled.
- 5.63 Surface Transport has been the subject of 204 claims for personal injury that were closed during the reporting period, of which three claims were for employers' liability and 201 claims were for public liability. London Rail personal injury claims are also now reported as part of the Surface Transport personal injury claims.

- 5.64 Surface Transport claims also includes claims received regarding the Sandilands derailment in November 2016. TfL and its insurers remain focused on doing everything we can to offer support to all those affected by the Sandilands derailment and are dealing with requests for support quickly. The TfL Sarah Hope line, run by specially trained staff, remains available to all those affected and continues to provide help with counselling and other support. To date, more than £1million has been paid for counselling, rehabilitation, compensation and other activities to support those affected. We are proactively staying in contact with all those affected to provide continued support, to resolve claims as soon as possible and to urge anyone needing further help to contact us directly so that we can look into their concerns immediately.
- 5.65 Of the 201 claims for public liability, 145 were closed without payment and 56 were settled.
- 5.66 The three claims for employers' liability were settled.
- 5.67 Finance has been subject to one claim for personal injury that was closed during the reporting period. The claim was for public liability and was settled.
- 5.68 Crossrail has been subject to one claim for personal injury that was closed during the reporting period. The claim was for employers' liability and was settled.
- 5.69 Out of the 436 personal injury claims closed by TfL during this period, 301 were closed without payment and 135 were settled. There was a decrease of 91 personal injury claims closed for this reporting period compared with the 527 claims closed and reported in the last reporting period (1 October 2016 – 31 March 2017).

Personal Injury Claims Concluded in the Reporting Period

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail							1	
Finance	6	2	1	2	3	2	2	1
London Transport Museum					1			
Surface Transport	342	331	371	256	241	220	291	204
London Rail	8	10	12	10	13	2	3	
Underground	230	249	271	253	259	234	230	231
Total	586	592	655	521	517	458	527	436

Personal Injury Claims – Concluded Employers' Liability (Staff)

	Reporting Period							4/17-9/17
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	
Crossrail							1	
Finance	1	1	1	1	1	1	1	
Surface Transport	3	4	5	7		4	5	3
Underground	45	51	40	44	41	44	36	38

Personal Injury Claims – Concluded Public Liability (Customers)

	Reporting Period							4/17-9/17
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	
Finance	5	1		1	2	1	1	1
London Transport Museum					1			
London Rail	8	10	12	10	13	2	3	2
Surface Transport	339	327	366	249	241	216	286	201
Underground	185	198	231	209	218	190	194	193

Personal Injury Claims – Concluded Cases

	Reporting Period							4/17-9/17
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	
£15,000	66	87	88	69	51	29	89	36
£10,000 - £14,999	67	56	38	45	24	22	17	16
£5,000 - £9,999	39	51	60	46	44	32	32	26
£1 - £4,999	89	95	98	104	78	64	63	57
£0	325	303	371	255	320	311	326	301

Employment Tribunal (ET) Proceedings

- 5.70 TfL continues to take a proactive and robust approach to managing ET cases, coupled with an extensive training programme for managers on the latest developments in the law and best practice so as to avoid employment disputes as far as possible.
- 5.71 London Underground has been the subject of 33 ET claims during the period of this report. Of these, 17 were for unfair dismissal, one was for sex discrimination, three were for trade union detriment, three were for disability discrimination, four were for race discrimination, one was for unlawful deductions from wages, one was for whistle blowing, one was for victimisation, one was for sexual harassment and one was for pregnancy discrimination.

- 5.72 Surface Transport has been the subject of three ET claims during the period. Of these, one was for disability discrimination, one was for sex discrimination and one was for unfair dismissal.
- 5.73 Professional Services have been the subject of nine ET claims during the period. Of these, one was for unfair dismissal, five were for disability discrimination, one was for race discrimination, one for discrimination against religion and one was for breach of the Agency Worker Regulations.
- 5.74 Of a total of 45 ET claims brought during the period, 25 cases are ongoing and 20 were concluded during the period. Of the 20 ET cases concluded during this period, six were won, two were withdrawn, two were struck out, nine settled and one was partially lost.
- 5.75 There was an decrease of five ET claims during this reporting period compared with the 68 claims reported in the last reporting period (1 October 2016 – 31 March 2017).

Total number of Claims

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Corporate	13	11	10	14	16	15	14	9
Crossrail	2	2	1	1		2	2	
Surface Transport	6	3	7	10	8	6	4	3
Underground	72	62	52	43	40	45	43	33
Total	93	78	68	68	64	68	63	45

Employment Tribunal Cases Concluded

*Claims won include withdrawn and struck out claims

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Lost	2	1	4	8	3	5	6	1
Settled	4	12	6	8	7	11	9	9
Won *	29	23	21	15	14	14	19	9

Civil Debt in Excess of £5,000

- 5.76 London Underground reported a summons received on 4 May 2017 for non-payment of national Non-Domestic Rates for the period 1 April 2017 to 31 March 2018. The rates were paid on 26 June 2017. A calendar reminder has been put in place to avoid a recurrence.

Unpaid Debt

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail		1						
Finance					1	1	1	
Planning		3						
Surface Transport			1	1	1	2	1	
Underground				1				1

Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998

- 5.77 As previously reported, London Underground reported that on 11 May 2017 it had received a claim in respect of an alleged breach of procurement regulations in relation to the 92 Tube Stock AC traction System replacement contract. LU will review their procedures to ensure legal requirements are complied with. This matter has now been settled.

Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998

	Reporting Period							
	10/13-3/14	4/14-9/15	10/14-3/15	4/15-9/15	10/15-3/16	4/16-9/16	10/16-3/17	4/17-9/17
Crossrail								
Commercial Development					1			
Finance	1	1	1	1	5	1	3	
Planning								
Surface Transport								
Underground		4	2	2	1		1	1

Other Known Breaches

- 5.78 No other alleged breaches were identified.

Other Material Compliance Issues

- 5.79 Commercial Development previously reported a dispute in relation to highways land that was vested in various London Boroughs which TfL maintain and was transferred to TfL on 3 July 2000 pursuant to the GLA Roads and Side Roads (Transfer of Property) Order 2000 was reported. Of the 32 London boroughs, agreement has been reached for land transfers with 29 boroughs. A hearing in the Court of Appeal was held on 1 and 2 March 2017 in relation to the remaining two boroughs. Judgment was given on 4 August 2017 allowing an appeal. TfL has applied for permission to appeal to the Supreme Court and awaits a decision.

5.80 On 22 September 2017, we informed Uber London Limited (ULL) that it would not be issued with a private hire operator licence at the expiry of its licence on 30 September 2017. We concluded that ULL is not fit and proper to hold a private hire operator licence. ULL have submitted an appeal against the licensing decision to the Westminster Magistrates' Court and are permitted under private hire legislation to continue to operate until the appeals process is concluded. A hearing will take place on 11 December to consider directions leading up to the appeal hearing. We anticipate the appeal hearing will take place in the early part of 2018.

Management of Compliance Issues

5.81 TfL's legal and compliance risks are managed as part of TfL's overarching strategic risk management framework. A range of operational and assurance processes are in place to mitigate these risks at all levels in the organisation.

5.82 These safeguards are supported by the provision of advice on and training in relevant legal and corporate governance issues, which are tailored to the needs of TfL's business units.

5.83 The legal and compliance framework is the subject of continuous review and improvement. Initiatives to address compliance in Information Governance and across TfL have included:

- (a) the introduction of new TfL Standing Orders and production of guidance to support the compliance of the new governance processes. The updates to Standing Orders include a number of measures to implement TfL's agreed actions in response to the report of the Rt Hon Dame Margaret Hodge MP into the Garden Bridge, such as Committee –level scrutiny of the implementation of matters under Mayoral Direction and strengthening of procedures under which the Commissioner and Chief Finance Officer approve authorities;
- (b) specific communication will be issued to all senior officers explaining the imperative of good procurement practices and reminding all that there are relevant resources to support that activity available from the Chief Procurement Officer's team;
- (c) the establishment of a General Data Protection Regulation (GDPR) Compliance Programme, to oversee and co-ordinate a portfolio of GDPR related projects across the business and ensure appropriate programme governance arrangements are in place;
- (d) promoting TfL's compliance with information governance legislation (including the FOIA, the DPA and the EIRs) and associated statutory Codes of Practice to the business;
- (e) the promotion through the TfL Management System of Information Governance policies, instructions and guidance;
- (f) collaborative working to promote and maintain a programme of pro-active publication of information, to improve transparency and simplify the handling of FOI requests;
- (g) ongoing bespoke training to the business and HR on a range of

employment issues including employment law updates, reasonable adjustments requirements and effective case management and providing guidance and best practice learned from Employment Tribunal cases;

- (h) training on a range of legal issues including Procurement Regulations and State Aid, Property Law and the Equality Act 2010 and the Public Sector Equality Duty;
- (i) continued collaboration to produce training materials and the implementation of an assurance process to ensure TfL's procurement processes are robust and legally compliant;
- (j) continued collaboration to review processes to reduce/ mitigate the risk of fraud and corruption in the procurement lifecycle and the introduction of an additional approval process to identify potential fraudulent transactions;
- (k) procurement of a new pan-TfL e-tendering portal which has functionality to enable TfL to comply better with its legal procurement obligations and minimise the risk of errors when conducting tender evaluations;
- (l) the ongoing issue of the Commercial Law Bulletin to the Commercial Teams to support the dissemination of important messages relating to regulatory and legal issues; and
- (m) the promotion of the importance of storing and managing procurement and contract information effectively in order to assist the business to meet its obligation as a public sector organisation.

6 Conclusions

- 6.1 The Legal Compliance Report for the period 1 April 2017 to 30 September 2017 sets out the legal and compliance matters of which TfL senior management is aware. There are no material breaches of the law which would affect TfL's continued operations.
- 6.2 Reported matters continue to be broadly in line with previous reports.

List of Appendices to this report:

None

List of Background Papers:

None

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