

Date: 7 June 2018

Item: Legal Compliance Report (1 October 2017 – 31 March 2018)

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 October 2017 to 31 March 2018.

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 October 2017 and 31 March 2018. 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 (ORR), 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

Prosecutions

- 5.1 On 4 June 2016 a contractor working on track improvements was injured as a result of being crushed against a platform at Whitechapel Station by a road rail vehicle and suffered severe injuries. The Office of Rail and Road (ORR) issued criminal proceedings in the Magistrates' Court against London Underground and Balfour Beatty Rail Limited (BBRL) for breach of section 3(1) of the Health and Safety at Work etc. Act 1974. At the first appearance hearing on 17 May 2018 at Thames Magistrates' Court, LU and BBRL both pleaded guilty on the basis to be agreed with the ORR. A hearing is listed to take place on 4 September 2018 where the Magistrates' Court will decide whether to refer the case to the Crown Court and whether any further hearings are necessary.
- 5.2 LUL has been taking steps to prevent a reoccurrence of such an incident by reviewing its approach and the contractor's approach to manage work safety. Safety performance has improved significantly over the past 12-18 months due to an increased focus on safe working environments.

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

- 5.3 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.

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

- 5.4 Customers, Communications and Technology reported one notice received under the Regulatory Reform (Fire Safety) Order 2005 following an unplanned inspection of the London Transport Museum in November 2017. The notice required the

rectification of fire safety deficiencies at the museum by 26 February 2018. The Transport Museum has addressed all the safety deficiencies raised. No further action is required.

Formal Warnings or Notices from the Environment Agency

- 5.5 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	10/17-3/18
Surface Transport		4			1	1	2		
Underground	1		1		5				

Formal Warnings or Notices from the Information Commissioner

- 5.6 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), Environmental Information Regulations 2004 (the EIRs) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the PECR).
- 5.7 No formal action was taken by the ICO between 1 October 2017 and 31 March 2018 in connection with TfL's compliance with the DPA or the PECR.
- 5.8 During this period, the ICO notified TfL of 10 new complaints from individuals who considered that TfL had failed to process their personal data in accordance with the DPA.
- 5.9 The first new complaint arose when a customer made several subject access requests (SARs), including for CCTV of an alleged assault by LU employees. The requester was advised to make the request to the BTP. The ICO found that TfL was likely to be in breach of the DPA and directed TfL to reply to the complainant within 28 days, which was complied with.
- 5.10 The second new complaint arose when a customer did not receive a response to his SAR. TfL investigation found that TfL had not received it and so a response was sent releasing the requested data. The ICO did not respond further.
- 5.11 The third new complaint arose when a customer complained that they had received 'junk' emails from TfL after providing an email address for a refund to be processed. TfL investigation found that the customer had been sent service messages but no marketing. Some of the emails had also been auto replies from the Customer Contact Centre. The customer's email address was suppressed so no further emails would be sent. The ICO found that TfL was likely to be in breach of the DPA because of the absence of a privacy notice when the customer provided their email address, but did not consider further action was needed.

- 5.12 The fourth new complaint was from a customer who had been sent a pdf attachment containing their personal data, including bank details, after setting up a direct debit for their congestion charging account. They were concerned about the lack of security protection for this document. The ICO considered that it was likely that the security of the personal data was insufficient. A process change was made, to redact the bank account details, and the ICO were informed and have taken no further action.
- 5.13 The fifth complaint was received from a member of the public who had received two letters enclosed with a replacement Oyster card, one of which related to a third party. This was the result of human error by an outsourced supplier. The ICO found that a breach was likely and required TfL to notify the other individual that their data had accidentally been disclosed to a third party, but otherwise took no further action.
- 5.14 The sixth case related to a former employee who had made a wide ranging SAR. TfL refused to process it on the grounds that it involved disproportionate effort and the requester had refused to revise their request. The ICO did not challenge TfL's position but asked that TfL consider releasing the data that would be easy to locate. A final response has been sent to the requester and copied to the ICO.
- 5.15 The seventh complaint was raised by an employee on two grounds: that personal data was being disclosed unfairly, as reasons for employee absences were being included unnecessarily in emails regarding staff availability; and that they had not received a response to a SAR within 40 days. The ICO found that TfL had likely breached the DPA on both counts and required TfL to reply to the SAR within 28 days. The employee had already raised the email issue as an internal complaint, which had acknowledged the problem and recommended remedial steps. The ICO was satisfied and took no further action.
- 5.16 The eighth complaint was from a taxi driver who had not received a response to their SAR. TfL acknowledged that there had been delays in responding to the SAR and confirmed that a response had now been sent. The ICO found that a breach had occurred because of the delay but took no further action.
- 5.17 The ninth complaint was from an employee who had raised concerns about how personal data had been collected about them in connection with an internal investigation. In addition the employee had submitted SARs and some data had been provided outside the 40 day deadline. The ICO found breaches had occurred but did not take any further action.
- 5.18 The tenth complaint is still outstanding. It arose in connection with a PCN issued to a member of the public, in relation to a car with the same Vehicle Registration Mark (VRM) as their car. The complainant made an FOI request for information relating to how often this occurred and passed this to the ICO. The ICO considered that there was a risk that this was a systemic DPA issue within TfL and asked for clarification. TfL has explained how the issue of cloned VRMs is managed and the processes that mitigate the risk of a PCN being issued to the 'wrong' vehicle owner and the ICO's response is awaited.
- 5.19 There was also one outstanding complaint from the previous reporting period. This related to TfL's practice of retaining personal data on fare evaders for 7 years. TfL explained the rationale for its data retention practices relating to penalty fares and the ICO was satisfied with the explanation and closed the case.

- 5.20 During this reporting period TfL notified one data protection breach to the ICO. This was as a result of two external, anonymous, emails being sent in March to a number of employees containing the salary details of other employees. The ICO did not consider that there was sufficient evidence available to suggest that a criminal offence had been committed (under the DPA 1998, s55) and took no further action.
- 5.21 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).
- 5.22 TfL received 1576 requests under the FOIA and EIRs between 1 October 2017 and 31 March 2018, and responded to 91.5 per cent of the requests within the statutory time limit. Our overall 2017/18 year end 'on time' performance was 91.2 per cent.
- 5.23 The ICO monitored our performance with FOI and EIR requests received between 1 July and 30 September 2017, as a result of a number of complaints which the ICO had received about overdue replies to requests made in 2016. This monitoring period ended following our final submission of performance data to the ICO on 1 November 2017. The ICO concluded that TfL demonstrated that *"a good level of performance [was] being maintained"* and further formal monitoring was not required.
- 5.24 Four complaints to the ICO relating to the FOI Act or EIRs were open at the end of the last reporting period. The first related to whether TfL holds a list of wheelchair accessible taxis under s176 of the Equality Act 2010. A decision is still pending from the ICO. A second complaint regarding the refusal of a request for the disclosure of projected costs and revenues for the Ultra-Low Emission Zone (ULEZ) scheme on commercial sensitivity grounds was upheld by the ICO and a Decision Notice required us to disclose the information. This was complied with by TfL in full. In the third complaint, a refusal on cost grounds to answer a request requiring the review of over 2000 emails, the ICO found that TfL correctly applied the cost limit. In the fourth complaint, arising from a refusal of a request for detailed pricing information under the LoHAC contract, the ICO found that TfL correctly applied the commercial prejudice exemption, although the requester has subsequently appealed to the First Tier Tribunal.
- 5.25 During this reporting period TfL was notified by the ICO of seven new complaints regarding TfL's handling of FOI and EIR requests. Three complaints remain open, these relate to: whether TfL holds a summary list of each risk assessment submitted to TfL by bus operators relating to accidents and operational changes; the refusal of a repetitive request for the pricing information under the LoHAC contract, which had been previously answered (and refused) on several other occasions; and a complaint regarding the refusal to supply information pertaining to TfL's decision not to renew a private hire operator's licence.
- 5.26 Three of the new complaints related to delayed responses to FOI requests. A full response was provided to two of the requests and the ICO took no further action.

A Decision Notice was issued in relation to the third complaint, which found that TfL was in breach of regulation 5(2) of the EIRs by failing to provide a response within the extended 40 working day time period. The ICO advised TfL to take steps to provide a full response within 35 calendar days following the notice. TfL has complied in full.

- 5.27 A Decision Notice was issued by the ICO in relation to the fourth complaint which found that TfL correctly applied an exemption on the grounds of commercial prejudice regarding a refusal to disclose the information in relation to the price breakdowns charged under the LoHAC contract. This was the second Decision Notice issued by the ICO in TfL's favour concerning information requested by different individuals about the LoHAC contract.

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	10/17-3/18
Commercial Development							1		
Customers, Communication and Technology								1	
Finance									
General Counsel	1					1	1		1
Group HR			1			1			
Planning	1								1
Rail		1							
Surface Transport	2	4	1	3	1	2		5	3
Underground					1				
Crossrail									

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

- 5.28 No warnings or notices were reported for this period.

Investigation by an Ombudsman

- 5.29 Surface Transport reported two outstanding investigations from the last report and nine 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 nine new investigations relate to: complaints about the delay in dealing with a complaint made against a taxi driver; the manner in which a topographical assessment and a Disclosure and Barring Service (DBS) check was administered; the conduct of telephone calls in relation to a Private Hire Vehicle driver licence application; the refusal of a Private Hire Vehicle driver licence; the delay in issuing a PHV driver licence; TfL's conduct concerning two Congestion Charging Penalty Charge Notices; the administration of a Congestion Charging Auto Pay payment;

a Penalty Charge Notice received due to the difficulty experienced when attempting to add a vehicle to receive a Blue Badge Discount and the removal of a vehicle by bailiffs.

- 5.30 In the first outstanding investigation, at the time of the last report TfL was monitoring the bus stand when the complaint was sent to the LGO. TfL provided the LGO with details of what has been done to address the complaint. TfL has implemented more frequent monitoring of the bus stand on recommendation of the LGO and has written to the bus operator to remind them of the vehicle standing arrangements at the stand. The matter is now closed.
- 5.31 In the second outstanding investigation, having complied with the LGO's request to provide information, the LGO was satisfied that TfL administered the examination correctly. TfL has published a full Taxi and Private Hire complaints procedure to ensure customers are aware of their right to complain to the LGO.
- 5.32 In the first new complaint, TfL complied with the recommendations made by the LGO to compensate the complainant for the delay caused in dealing with the complaint and the incorrect information provided.
- 5.33 In the second new complaint, the LGO identified failings in the procedures and recommended TfL pay compensation to the complainant for the delays caused to the application. TfL has disputed the LGO's findings and an outcome is awaited.
- 5.34 In the third new complaint, TfL apologised to the complainant for the manner in which the telephone calls were conducted. The LGO was satisfied with the action TfL took to address the complaint and decided not to investigate the matter further.
- 5.35 In the fourth new complaint, the LGO found no fault in TfL's decision to refuse the licence application.
- 5.36 In the fifth new complaint, TfL complied with the LGO's request to provide further information on the DBS procedure. An outcome is awaited.
- 5.37 In the sixth new complaint, the LGO was satisfied with the manner in which TfL administered the two Congestion Charging Penalty Charge Notices.
- 5.38 In the seventh new complaint, the LGO found that TfL was not at fault for the complainant's payment failing.
- 5.39 In the eighth new complaint, the LGO was satisfied with the steps taken by TfL to cancel the Penalty Charge Notices and refund the complainant.
- 5.40 In the ninth new investigation, the LGO found that TfL was at fault and that the complainant should be compensated for the erroneous removal of the vehicle.

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	10/17-3/18
Rail	1								
Surface Transport	4	4	4	3	3	5	8	2+5	2 + 9

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

- 5.41 Planning reported four outstanding Enforcement Notices from the previous reporting period and one new notice in the current period.
- 5.42 The first outstanding notice (received on 25 February 2014) was an Enforcement Notice from the 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. TfL continues to monitor the matter.
- 5.43 The second outstanding Enforcement Notice (received on 20 April 2017) from the 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. TfL continues to monitor the matter.
- 5.44 The third outstanding 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 continues to monitor the matter.
- 5.45 The fourth outstanding Enforcement Notice (received on 14 August 2017) from the 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 continues to monitor the matter.
- 5.46 The new Enforcement Notice (received on 24 January 2018) from the London Borough Hackney relates to a breach of planning control at a site at Holywell Lane in Shoreditch (under the East London Line). The site is being used as a car park although it was granted temporary planning permission for the use as office/ retail/ mixed use. The tenant has submitted a planning application to the London Borough of Hackney to regularise the use of the site. An outcome is awaited.
- 5.47 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 eight weeks of the date of the notice. TfL has completed the repairs and informed tenants to seek consent from TfL before erecting signboards directly on the building in order to prevent future damage. The matter is now closed.
- 5.48 Customers, Communications and Technology received a notice in March 2018 under the Contravention of Building (Approved Inspectors etc) Regulations 2010 in relation to outstanding snagging issues for building work undertaken at the London Transport Museum in Acton within three months of the notice. Works have commenced to rectify the outstanding issues.

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

	Reporting Period								10/17-3/18
	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	1
Customers, Communication and Technology									1
Finance	1								
Planning	5	6	6	6	7	9	7	5 +3	4 +1
Underground		1						3	
Surface Transport								1	

Decisions Subject to a Judicial Review

- 5.49 Surface Transport previously reported an application for judicial review 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 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 be able 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.
- 5.51 The Claimants applied for permission to appeal the decision on the English Language Requirement and TfL applied for permission to appeal the finding on the Telephone Requirement. Permission was granted for both appeals but the appeal against the English Language Requirement was withdrawn before the hearing, which took place (in respect of the Telephone Requirement) on 20-23 February 2018. The court found in TfL's favour and the Telephone Requirement remains in place. The emergency telephone alternative was set aside.
- 5.52 Surface Transport reported a judicial review application by the Licenced Private Hire Car Association (LPHCA) in relation to changes to the licence fees for private hire operators. A hearing took place on 25 April 2018. On 30 May, the High Court dismissed the LPHCA's challenge. In dismissing the claim, the Court found that there was no unlawful cross-subsidy between the different Taxi and PHV licence streams in the way the licence fees had been structured by TfL and that sufficient information had been given about the proposals in the consultation.
- 5.53 Crossrail previously reported a judicial review application on 23 August 2017 in relation to a decision by Crossrail to dispose of a site at Woolwich on the open market rather than negotiate a sale of the land exclusively with one interested party. A hearing took place on 21 March 2018 in the High Court and the claim was dismissed. Since then, the Claimant has made an application for leave to appeal. A decision is awaited.

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	10/17-3/18
Crossrail			1	1		1	1	1	1
Customers, Communication and Technology	2	1	1	1	1	1			
Finance	1								
Planning			1						
Surface Transport	1	2	1	2	3	4	3	2	1+1
Underground	1		1		1	1	1	1	

Inquests

- 5.54 London Underground has been involved in 56 inquests, 36 have been carried forward from the previous report. 20 new London Underground inquests are included in this report for the first time.
- 5.55 Of the 36 inquests carried forward from the previous report, 18 were suicides, five narrative conclusions, three open conclusions, one accident and nine are awaited. Of the 20 new inquests reported, three were suicides and 17 are awaited.
- 5.56 Surface Transport has been involved in 163 inquests, 131 have been carried forward from the previous report. 32 new Surface Transport inquests are included in this report for the first time.
- 5.57 Of the 131 outstanding inquests, 82 inquests were adjourned pending the outcome of criminal proceedings or police investigations, 21 are awaited, 11 await the Coroner's decision on whether to resume the inquests, eight road traffic collisions, two suicides, four accidental deaths, one narrative verdict, one where the Coroner decided not to hold an inquest after a driver of a lorry was found not guilty of causing death by dangerous driving and one death by careless driving.
- 5.58 Of the 32 newly-reported matters, 21 inquests were awaited, nine were adjourned pending the outcome of criminal proceedings or police investigations, one road traffic collision and one accidental death.

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

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	10/17-3/18
Crossrail	1	2							
Surface Transport	11	12	13	13	57	79	101 53 + 48	155 (101 + 54)	163 (131 + 32)
Rail	2	3	3	1	1	7	7 4 + 3		
Underground	30	32	21	29	35	31	46 22 + 24	74 (27 + 47)	56 (36 + 20)

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	10/17-3/18
Other	1	1	1	2	5	7		5	11
Narrative		1		1	2	1	1	2	6
Self- harm	5								
Misadventure		1		1					
Open Verdict	4	2	2	2	1	3	5	8	3
Accidental	6	8	4	3	5	18	7	19	6
Suicide/ took own life	2	11	13	6	17	8	14	29	23

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

- 5.59 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 took place on 4 to 6 December 2017. Since the end of this reporting period, in April 2018, the Court dismissed the claim.
- 5.60 Surface Transport reported a claim during this reporting period brought against a licensee for failure to pay rent arrears and other charges. Proceedings were issued on 19 January 2018 to recover the arrears. We anticipate that a trial will take place later this year. The matter is ongoing.
- 5.61 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 which may be subject to appeal.

- 5.62 Crossrail previously reported a claim made by a landowner (previously incorrectly reported as a contractor) in May 2016 alleging negligent misstatement in relation to a Helpdesk enquiry relating to safeguarding. The claim was settled following mediation in December 2017. The matter is now closed.
- 5.63 Customers, Communication and Technology previously 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. The matter is ongoing.
- 5.64 Customers, Communication and Technology reported a claim by Train Operating Companies (TOCs) for revenue due as a result of fares changes in 2015.

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	1
Finance						1	1	1	1
Surface Transport					1	2	1	1	1+1
Underground		1			1	2	1		
Customers, Communication and Technology							1	1	1

Personal Injury Claims

- 5.65 London Underground has been the subject of 200 claims for personal injury that were closed during the reporting period, of which 33 claims were employers' liability claims by staff and 167 claims were for public liability by customers/members of the public.
- 5.66 Of the 167 claims for public liability, 113 were closed without payment and 54 were settled.
- 5.67 Of the 33 claims for employers' liability, 11 were closed without payment and 22 were settled.
- 5.68 Surface Transport has been the subject of 152 claims for personal injury that were closed during the reporting period, of which two claims were for employers' liability and 150 claims were for public liability. London Rail personal injury claims are now reported as part of the Surface Transport personal injury claims.
- 5.69 Of the 150 claims for public liability, 106 were closed without payment and 44 were settled.

- 5.70 Of the two claims for employers' liability, one was closed without payment and one was settled.
- 5.71 Finance has been subject to two claims for personal injury that were closed during the reporting period. The two claims were for employers' liability which were settled.
- 5.72 Crossrail 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.
- 5.73 Out of the 355 personal injury claims closed by TfL during this period, 231 were closed without payment and 124 were settled. There was a decrease of 81 personal injury claims closed for this reporting period compared with the 436 claims closed and reported in the last reporting period (1 April 2017 - 30 September 2018).

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	10/17-3/18
Crossrail							1		1
Finance	6	2	1	2	3	2	2	1	2
London Transport Museum					1				
Surface Transport	342	331	371	256	241	220	291	204	152
London Rail	8	10	12	10	13	2	3		
Underground	230	249	271	253	259	234	230	231	200
Total	586	592	655	521	517	458	527	436	355

Personal Injury Claims – Concluded Employers' Liability (Staff)

	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	10/17-3/18
Crossrail							1		
Finance	1	1	1	1	1	1	1		2
Surface Transport	3	4	5	7		4	5	3	2
Underground	45	51	40	44	41	44	36	38	33

Personal Injury Claims – Concluded Public Liability (Customers)

	Reporting Period								10/17-3/18
	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	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	150
Underground	185	198	231	209	218	190	194	193	167

Personal Injury Claims – Concluded Cases

	Reporting Period								10/17-3/18
	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	
£15,000	66	87	88	69	51	29	89	36	38
£10,000 - £14,999	67	56	38	45	24	22	17	16	21
£5,000 - £9,999	39	51	60	46	44	32	32	26	18
£1 - £4,999	89	95	98	104	78	64	63	57	47
£0	325	303	371	255	320	311	326	301	231

Employment Tribunal (ET) Proceedings

- 5.74 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.
- 5.75 London Underground has been the subject of 41 ET claims during the period of this report. Of these, 22 were for unfair dismissal, three were for sex discrimination, two were for trade union detriment, nine were for disability discrimination, two were for race discrimination, one was for unlawful deductions from wages, one was for the breach of the Agency Worker Regulations, one was for victimisation.
- 5.76 Surface Transport has been the subject of eight ET claims during the period. Of these, one was for disability discrimination, one was for sex discrimination, two were for race discrimination and four were for unfair dismissal.
- 5.77 Commercial Development has been the subject of one ET Claim. The claim was for disability discrimination.
- 5.78 Professional Services have been the subject of ten ET claims during the period. Of these, four were for unfair dismissal, five were for disability discrimination, one for discrimination against religion.

- 5.79 Of a total of 60 ET claims brought during the period, 38 cases are ongoing and 22 were concluded during the period. Of the 22 ET cases concluded during this period, two were won, six were withdrawn, six were struck out, one was lost, five settled, one dismissed and one was partially lost.
- 5.80 There was an increase of 15 ET claims during this reporting period compared with the 45 claims reported in the last reporting period (1 April 2017 – 30 September 2017). The increase in the number of Employment Tribunal claims could be as a result of the abolition of Tribunal fees in July 2017.

Total number of Claims²

	Reporting Period								10/17-3/18
	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
Corporate	13	11	10	14	16	15	14	9	10
Crossrail	2	2	1	1		2	2		
Surface Transport	6	3	7	10	8	6	4	3	8
Underground	72	62	52	43	40	45	43	33	41
Total	93	78	68	68	64	68	63	45	60

Employment Tribunal Cases Concluded

*Claims won include withdrawn and struck out claims

	Reporting Period								10/17-3/18
	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	2
Settled	4	12	6	8	7	11	9	9	5
Won *	29	23	21	15	14	14	19	9	15

Civil Debt in Excess of £5,000

- 5.81 Commercial Development reported that bailiffs were instructed to recover withheld rent owed by TfL to a Landlord. TfL withheld the rent due to the Landlord not performing its repair obligations. The rent has now been paid in full and the Landlord is engaging with TfL on the repair issues.

² A number of the reported claims have more than one head of claim (for example a claimant may claim unfair dismissal and race discrimination or sex discrimination and race discrimination). Where this is the case, the claim is reported once. Where claims involve unfair dismissal, these are reported as the main claim. In cases where there is no obvious main claim (such as multiple types of discrimination) one head of claim is selected.

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	10/17-3/18
Commercial Development									1
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

5.82 No breaches were reported during this reporting period.

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	10/17-3/18
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

5.83 No other alleged breaches were identified.

Other Material Compliance Issues

5.84 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. On 4 August 2017 the Court of Appeal allowed the appeal. TfL has been granted permission to appeal to the Supreme Court. The hearing is likely to take place at the end of 2018 with a decision to follow in 2019.

- 5.85 In the last report Surface Transport reported that on 22 September 2017 Uber London Limited (ULL) were informed that it would not be issued with a private hire operator licence at the expiry of its licence on 30 September 2017. TfL concluded that ULL was not fit and proper to hold a private hire operator licence. ULL submitted an appeal against the licensing decision to the Westminster Magistrates' Court and is permitted under private hire legislation to continue to operate until the appeals process is concluded. The appeal hearing has been listed to take place on 25 June 2018 for 3 days. The London Taxi Drivers Association have been permitted to make written submissions in the appeal.
- 5.86 Surface Transport reported receiving a claim for compensation under the Land Compensation Act resulting from the Archway Gyrotory scheme. The matter is ongoing.

Management of Compliance Issues

- 5.87 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.
- 5.88 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.
- 5.89 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) ongoing work to update commercial templates and forms to ensure they align with legal requirements;
 - (b) 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;
 - (c) maintaining a GDPR Compliance Programme, to oversee and co-ordinate activity and ensure appropriate arrangements are in place, to ensure GDPR compliance across TfL;
 - (d) training and advice to staff on the GDPR requirements and how to ensure appropriate processes and systems are in place;
 - (e) the promotion through the TfL Management System of Information Governance policies, instructions and guidance;
 - (f) the promotion of more pro-active publication of information, to improve transparency and simplify the handling of FOI requests;
 - (g) collaborative working to promote and maintain a programme of pro-active publication of information, to improve transparency and simplify the handling of FOI requests;
 - (h) 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;

- (i) training on a range of legal issues including the procurement regulations and state aid, the Equality Act 2010 and the public sector equality duty;
- (j) continued collaboration to produce training materials and the implementation of an assurance process to ensure TfL's procurement processes are robust and legally compliant;
- (k) 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;
- (l) ongoing support in relation to the 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;
- (m) the introduction of a procurement/commercial knowledge area to enable the business to have better visibility of the correct way of sourcing requirements compliantly, and enable staff to use the resource to seek advice and assistance with procurements;
- (n) the introduction of new policy and procedures for safeguarding with staff and volunteers at the London Transport Museum;
- (o) reviewing and updating contracts where the General Data Protection Regulation applies, or may apply, to ensure TfL contracts are compliant with the new legal requirements when they come into force;
- (p) the introduction of a second line assurance programme to improve controls and mitigate risks; develop technical knowledge and capability; and ensure standards and processes are effective; and
- (q) 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.

6 Conclusions

- 6.1 The Legal Compliance Report for the period 1 October 2017 to 31 March 2018 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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