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20 September 2013

**Sir Peter Hendy CBE**  
Commissioner of Transport

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Dear John

## **Report on the Transparency of the GLA Group**

You asked the Mayor in your letter of 1 July 2013 to provide a response on behalf of the GLA Group to the Oversight Committee's Report on the Transparency of the Group which was published on 26 June 2013. I have, however, asked the GLA to enclose this specific TfL response with the Mayor's wider response, as so much of the Report had TfL as its focus.

We were pleased to note the Report and its recommendations. We have no issue with any of them. The Committee's Report supports our direction of travel.

TfL is committed to operating in a transparent and open manner and we fully recognise the benefits that this brings, to our customers and stakeholders and to ourselves. We make a very extensive range of information publicly available, on all aspects of our operations, projects and organisation, through a variety of channels.

Our focus has been on improving the information available to customers, to enable them to use our services more effectively, as well as making information available that enables TfL to be properly scrutinised and held to account.

We have, for example, extended the information we provide on travel disruption (planned or unplanned) using new sources such as Twitter and social media and opened up live feeds of operational data on our services which are used by web and app developers to give real time information to millions of customers. The Shakespeare review commissioned by the Government earlier this year to consider the use of open data created by the public sector noted TfL's leading position on this, compared to the rest of the UK's public bodies, and reported that we have 'generated an [estimated] value of £15-58 million each year in saved time for TfL's customers'.

Alongside those improvements to customer information, we have substantially changed the way information is made available about our decision-making (in accordance with the Localism Act 2011), published the information required by the DCLG's Code of Recommended Practice for Local Authorities on Data Transparency and met all of the various requirements in relation to disclosure of remuneration data.

Most recently, we have created a new Transparency Data page of the current TfL website (linked from the Home page and every other page of the website), improved the accessibility and presentation of our key reports on operational and financial performance and identified a range of previously unpublished data which is now being made available on the Transparency Data page.

But we accept we can do more, particularly in some of the areas highlighted in the Committee's report, and our response to its recommendations is set out in Annex 1. We believe that these additional steps, which will build on the improvements we have already made, show that there is a clear determination to make TfL an even more transparent organisation.

Yours sincerely

A handwritten signature in black ink, appearing to be 'PH', written over a horizontal line.

Sir Peter Hendy CBE

cc: Isabel Dedring, Deputy Chair of TfL and Deputy Mayor for Transport  
Tim Steer, Scrutiny Team Manager, GLA

**Recommendation 1**

The GLA Group should implement the Government's transparency code of recommended practice. In particular, it should assert the principle that all contracts should be published unless there are pressing and genuine reasons not to.

**TfL Position**

TfL has already implemented the DCLG's Code of Recommended Practice on Data Transparency. We are expanding the range of contracts we publish under the Code so that all contracts with a value above the appropriate OJEU threshold entered into by TfL and its subsidiaries as a result of an Invitation To Tender (ITT) issued after 1 September 2013 will be published in full, redacting only limited information where it would be exempt from disclosure under FOI. TfL's standard terms and conditions are already published. Contracts concluded under an ITT that was issued before 1 September 2013 will be published when disclosed in response to an FOI request or when they are the subject of a TfL press release.

**Recommendation 2**

All GLA Group organisations should have a searchable webpage (akin to Crossrail's) with an up-to-date register of their active contracts including brief descriptions, contract values (as opposed to using value bands), the names of suppliers, contract end dates and hyperlinks to published contracts (including those released under FOI). If an organisation has a very large number of active contracts – perhaps over 500 – it could have a minimum price threshold for inclusion in the register as TfL does. However, in an age where this information is held electronically the administrative burden is much less than it would have been.

**TfL Position**

TfL will create a searchable webpage akin to Crossrail's

(<http://www.crossrail.co.uk/suppliers/direct-crossrail-contract-opportunities?category=&status=&keywords=>) and include in it the information recommended above. This will require a phased approach as it will involve a far larger number of contracts than Crossrail, as they are published in accordance with Recommendation 1, and will be developed as part of continuing work to create a new website for TfL. Before that functionality is available, likely to be from early 2014, TfL's contracts will be published, and searchable, via the Contractsfinder website, with a link from TfL's existing Transparency webpage.

**Recommendation 3**

It would be in the public interest for all GLA Group contracts to be publishable. As such, transparency clauses should be included routinely in all new contracts to allow them to be published in full, including financial information.

Where a functional body believes a transparency clause could prejudice its commercial interest, and that this would outweigh the inherent public interest in openness and transparency, it should note the reason in its contracts register.

### **TfL Position**

The transparency clause below has been included in all TfL contracts since 2011.

'The Service Provider acknowledges that the Authority [TfL] is subject to the Transparency Commitment. Accordingly ... the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.

The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation ... The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published ... The Authority shall make the final decision regarding publication and/or redaction of the Contract Information'.

"'Transparency Commitment' means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which the Authority is committed to publishing its contracts, tender documents and data from invoices received'.

### **Recommendation 4**

GLA Group bodies should each adopt an open policy on the value of contracts that will be published. TfL has committed to publishing contracts worth over £10 million, which will result in 20-25 contracts a year being released. We believe this threshold is too high and that TfL should reassess it in order to publish more contracts. We do accept that volume may be a barrier so each body should determine a suitable value threshold, ensuring as many contracts as possible are published, and provide it to the Committee with reasons for the value chosen. These recommendations should be seen as a minimum in advance of potential new government regulations which could force public bodies to publish all contracts in full.

### **TfL Position**

See response to Recommendation 1.

### **Recommendation 5**

The Mayor should review practice around the GLA Group – informed by the responses provided to this investigation – to identify how more information around decisions can go into the public domain. His response should:

- Indicate how he will implement the hierarchy of confidentiality mechanisms, avoiding reserved and delayed papers in favour of part 2s and redactions. We want there to be a Group-wide commitment to including an open Part 1 for every agenda paper and decision form to avoid papers that are reserved in their entirety or have their publication delayed.
- Include a clear test for use across the GLA Group to determine whether information should be withheld from publication and/or considered in private, including criteria for when information is commercially sensitive, and when and how any such information could subsequently be released. This is particularly important for information that is not covered by Access to Information rules where the bases for deciding what information will and will not be published can be less clear.
- Indicate who within each GLA Group organisation is responsible for determining whether the test above has been met and ensuring that the best confidentiality mechanism is being used.
- Make proposals as to how progress in publishing more decision-making information could be monitored over the coming months.
- Comment on the changes to the structure under TfL's Board which mean detailed conversations are continuing to happen in private despite the intention of the Localism Act to bring more of them into the public domain.

### **TfL Position**

This recommendation is addressed to the GLA but TfL would accept the first bullet point, follow GLA guidance on applying the exemptions to Board and Committee papers, nominate a person to ensure such guidance is applied correctly and provide monitoring information. There have only been two recent occasions when the Mayor and Board Members have had informal discussions. These were short meetings about general issues with no specific decisions taken. All decision-making is in accordance with the requirements of the Local Government Act and the Localism Act.

### **Recommendation 6**

The Mayor should prepare guidance for people working for the GLA Group clarifying that it is their duty to assist the Assembly in its role. This should also be made clear in documentation when we make a new appointment.

### **TfL Position**

TfL will implement any guidance the Mayor prepares on this.

### **Recommendation 7**

In addition to addressing the specific concerns above, the Mayor should establish standards for responses to Assembly committees and individual

Members. He may wish to use the following parameters, some of which are already established, as a starting point:

- Full responses to correspondence will be received within 20 working days. Functional bodies will not need to be chased.
- Responses to reports will be received within a maximum of three months.
- Quality: responses should address each recommendation in turn (even if it is to say why it has not been accepted) and engage with a committee's concerns and the conclusions it has drawn.

In future, the Assembly secretariat will systematically monitor responses to committee information requests and reports. It will report to the GLA Oversight Committee instances where responses take longer than 20 working days or three months respectively. It will also report responses when committee chairs consider them to be poor quality. The GLA Oversight Committee may also choose to refer these cases to the Mayor.

#### **TfL Position**

TfL already works to respond to Assembly Members' correspondence within 20 working days - the average response time this financial year to date is 11 days, with more than a quarter of cases answered within one working day - and to provide responses to reports by the Assembly within the deadline given in the report or by the Assembly. We will always address each recommendation made in a Committee's report.

#### **Recommendation 8**

To reduce delays in its responses to correspondence, we consider that MOPAC should, as a matter of urgency, set up a single email address specifically for enquiries from Members and Members' staff. Additionally, the distinction that MOPAC previously tried to draw between enquiries from Members and their staff was inappropriate and MOPAC should confirm that this is no longer its approach.

#### **TfL Position**

This recommendation is not applicable to TfL.