

Len Duvall AM
Chair of the GLA Oversight Committee

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Sadiq Khan
Mayor of London
Sent via email

14 November 2017

Dear Sadiq,

Personal data in the GLA Group

The GLA Group handles a large and increasing amount of personal data. In its role to anticipate and identify potential risks for the Group, the GLA Oversight Committee has been examining the way such data is processed. Personal data takes many forms, and can include highly sensitive information. In all cases, the GLA and its functional bodies need to understand their obligations. This is a rapidly evolving area, with new legislation coming on stream next year and technology advances continuing apace, allowing for greater access to people's personal details. We therefore need to be prepared to both realise the benefits of sharing personal data where appropriate - and manage the risks, and potential harm. We have seen many major corporations suffer financial and reputational damage because of their inability to keep personal data safe; we do not want the GLA Group to suffer the same fate.

Organisations in the GLA Group collect personal data through a range of methods and for a wide variety of purposes. The Metropolitan Police Service (the Met) and Transport for London (TfL) process the largest volumes of personal data in the Group and were therefore the main focus of our work. On 14 September, the Committee held a formal committee meeting to discuss how the GLA Group uses personal data with the Information Commissioner, together with representatives from Big Brother Watch, the Open Rights Group, the GLA, TfL, MOPAC and the Met. In advance of this meeting we also commissioned a consultant to collect information and key documents from the GLA and functional bodies to establish a picture of the current position across the GLA Group. We are publishing that report alongside this letter.

Engaging the public

If the GLA Group is to win and retain the trust of the public over its use of their personal data, it has to do more to increase awareness and encourage public debate around the issues it raises. This is particularly important where new technology is introduced.

Transport for London

Last year, TfL collected Wi-Fi connection data (MAC addresses) at 54 tube stations in zones 1-4 over a four-week period. The Committee heard about TfL's approach to consulting customers and engaging key stakeholders as part of this trial. Elizabeth Denham, the Information Commissioner, told us

“The TfL Wi-Fi trial was a really good example of a public body coming forward with a plan, a new initiative, consulting us deeply and doing a proper privacy impact assessment... [It was] a good example of privacy by design and good conversations with the regulator to try to get it right.”

TfL's approach to this new initiative seems to the committee to represent good practice and we were also pleased to hear that the organisation has recently published a review of this trial, setting out the results and explaining how this approach can benefit customers and TfL.

Before this technology is rolled out across the tube network, however, we would ask you to ensure that TfL addresses two key concerns discussed at our meeting:

- Customers need to be made more aware that TfL is monitoring their Wi-Fi connections while on the network and given simple instructions on how to opt out. In particular, signage and announcements at tube stations should advise people to simply switch their Wi-Fi off if they do not wish to be monitored.
- While we are satisfied that the Wi-Fi connection data is immediately and irreversibly pseudonymised, we would like further reassurance regarding the risk that this data could be combined with other information to identify individuals.

Following our meeting, it has emerged that TfL will use this data to generate £322 million in advertising revenue over eight years.¹ We recognise the financial challenges currently facing TfL, and we support its efforts to increase its commercial revenues. However, TfL should have been more up-front about this aspect of the trial and the financial benefits it hopes to achieve using its customers' data. This information was omitted from the posters at tube stations, for example, which simply said

“Transport for London will collect WiFi connection data at this station to better understand journey patterns and improve our services.”

There are risks that some customers might think that they have been taken advantage of. As the Information Commissioner, Elizabeth Denham, told us, it is easy to lose the trust of the public. We think it would have been better if TfL had made this element of their plan clearer, and we hope TfL will address this when it rolls out Wi-Fi data collection across the tube network.

Metropolitan Police Service

We have significant concerns about how the Met has been trialling facial recognition technology. There appears to have been very little, if any, consultation with the public or with relevant stakeholders on this, and there was no indication at our meeting that the Met

¹ <http://news.sky.com/story/tfl-may-make-322m-by-selling-on-data-from-passengers-mobiles-via-tube-wifi-11056118>, accessed 27 September 2017.

was planning to publish the results of its trials. We agree with the UK Biometrics Commissioner that the Met “must carry out a proper evaluation and publish the results”.² You, as Mayor, and MOPAC, through its oversight role, need to push the Met to improve its engagement and transparency on issues such as facial recognition. This is a hugely controversial topic and it is extremely disappointing that trials have been conducted at the Notting Hill Carnival with so little public engagement. Simply putting out press releases is not enough: the Met must engage with the public and with stakeholders in a much more meaningful way before going any further.

We also urge you to lobby the Government to publish its long-delayed Biometrics Strategy and allow Parliament to debate the issue properly. The Met is trialling this technology in the absence of a legislative framework and proper regulation or oversight. The Committee is deeply concerned by this and there is a strong case for you to instruct the Met to stop trials until either MOPAC develops an appropriate internal framework, or a national framework is established that has been properly consulted upon. The concept of policing by consent is potentially at risk if the Met deploys such intrusive technology without proper debate and in the absence of any clear legal guidelines.

Data retention and transparency

There is currently no simple way for people to find out for how long their personal data is kept. According to the Data Protection Act 1998, personal data should not be kept for any longer than is needed, and this flexibility means that retention periods vary, depending on the reasons data is collected and used. For example, images from the Met’s body-worn cameras are kept for 31 days (unless required as evidence) while TfL retains Oyster journey data for eight weeks. TfL retains Automatic Number Plate Recognition data for 28 days while the Met keeps the same data for two years. This is a very confusing picture and we ask you to consider how the GLA Group can make it easier for the public to find out how long their personal data is retained.

Security

During our meeting, we heard how TfL and the Met are frequently under threat from external sources intent on breaching their systems. According to our consultant’s report, organisations across the GLA Group have security standards in place to protect against these threats. We were therefore concerned to hear that the personal data belonging to 74 users of the Santander Cycle Hire scheme was accessed as a result of an external hack last year. We suggest that you ensure that security measures across the GLA Group are assessed to check they are fit for purpose.

Worrying as these external threats are, it is clear that the most common threat comes from within, generally as a result of human error. We heard about incidents in the GLA and the Met where staff actions had led to the loss of personal data – indeed, one such incident took place during the course of our investigation. It is vital that appropriate training is in

² Press release from Paul Wiles, Biometrics Commissioner, [Metropolitan Police’s use of Facial Recognition Technology at the Notting Hill Carnival 2017](#), 23 August 2017.

place across the GLA Group, and that staff carry out this training regularly to minimise the risk of an accidental data breach occurring.

New legislation

The GLA Group needs to be prepared for the introduction of the General Data Protection Regulation (GDPR) from May 2018, regardless of the UK's forthcoming departure from the European Union. We welcome the fact that the GDPR – and the Data Protection Bill mentioned in the last Queen's Speech – will expand and strengthen the rights of citizens over their personal data. It will also, however, increase the level of financial risk for the GLA Group, with penalties for the most serious violations rising from £500,000 to €20 million or 4 per cent of the preceding year's annual turnover, whichever is higher. The GLA's Audit Panel intends to check progress on the steps being taken across the GLA Group to prepare for the introduction of the GDPR next May.

In conclusion, the committee is clear that personal data can be used to improve public services and bring huge benefits to Londoners. It can allow organisations to make efficiency savings, provide policy-makers with better data, and identify groups or individuals who are not receiving services or who may be at risk. However, collecting, storing, using and sharing personal data comes with risks. And, as more personal data is collected, as technology advances, and as legislation gets tougher, the risks for the GLA Group increase.

Finally, I would like to state that the committee has been pleased with the constructive engagement of GLA Group staff during this investigation. As the Information Commissioner said at our meeting, ten years ago this debate would have taken place behind closed doors. It is important to keep the discussion of these issues in the open, or we risk losing the trust of the public – particularly as technology develops so quickly in this field. I ask you to ensure that the GLA Group consults proactively with the public on this issue, particularly before introducing new technology. Other Assembly committees may want to continue the debate over the coming months and years.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Len Duvall', written in a cursive style.

Len Duvall AM

Chair of the GLA Oversight Committee