

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 7 April 2021

**Public Authority:** Transport for Greater Manchester  
**Address:** 2 Piccadilly Place  
Manchester  
M1 3BG

**Decision (including any steps ordered)**

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1. The complainant submitted a seven part information request to Transport for Greater Manchester ("TfGM") in relation electric charging points for vehicles in various locations in Greater Manchester. TfGM provided part of the information requested and stated that it did not hold the remainder.
2. The Commissioner's decision is that on the balance of probabilities, TfGM does not hold any recorded information falling within part 5 and it disclosed all the information it held within the scope of the remaining parts of the request.
3. Therefore, the Commissioner does not require TfGM to take any steps as a result of this decision.

**Request and response**

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4. On 14 April 2020 the complainant wrote to TfGM to request information in the following terms:  
  
*"1. How many charging points have by now (April 2020) been installed and are in working condition specifically by utilising this grant, and the locations of these charge points?"*

- 2. How many charge points are you currently installing using this grant, and the locations of these?*
  - 3. How many charge points in total are you intending to install using this £3 million grant provided, and their locations?*
  - 4. How many of the promised 48 charge points are you planning to install in the Wythenshawe area, which has a population of 110,000, so probably 50,000 motorists?*
  - 5. How many of these 50,000 Wythenshawe motorists have you calculated will not be able to charge their vehicles from their home electricity supply, so by 2050 will be entirely dependent on public charging facilities for power for their cars/vans??*
  - 6. What is the maximum charge rate for these charge points?*
  - 7. How much of the £3 million has currently been spent on administration, including providing a salaried post for a Sustainable Journeys Delivery Officer and re-tendering the supply of electricity to your existing charge point system, and how much of this £3 million do you anticipate will be spent in total on administration?"*
5. TfGM responded on 13 May 2020. It provided the complainant with the information that was considered to be held within the scope of his information request, as follows:
- In relation to part 1 of the request, TfGM explained that the roll out of the implementation of the charging points was postponed, indicating that no charging point was installed yet.
  - In relation to part 2, part 3 and part 4 of the request, TfGM stated that as part of this project there will be 50 charging points installed on 25 charging posts and provided a table indicating the locations of these charging posts.
  - In relation to part 5 of the request, TfGM stated it had not undertaken an analysis of motorists' ability to charge their vehicles from their home electricity supply for any specific area of Greater Manchester. Therefore, this information was not held. However, in order to assist the complainant it referred him to a public consultation that was being carried out by the Office of Law Emission Vehicles by providing a link to their consultation.
  - In relation to part 6 of the request, TfGM provided the complainant with a report from Greater Manchester Combined

Authority (GMCA) that predicted that *"customers would need to pay £0.25 per kWh when fuelling their vehicle with a fast charger, and £0.35 per kWh when fuelling their vehicle with a rapid charger."* However, TfGM stated that *"these tariffs were envisaged to come in from 1st April, but have been put on hold. Currently we do not have a firm date for the commencement of these tariffing arrangements."*

- In relation to part 7 of the request, TfGM stated that *"of the £3m grant received, £0.6m has been spent to date on staff costs including all activities around the preparation of the EV charging infrastructure and the promotion of Electric Vehicles. None of the grant has been spent on retendering the supply of electricity for the existing GMEV Network. It is estimated that £0.7m will be spent on staff costs by the end of the project."*
6. The complainant wrote back to TfGM on 13 and 15 May 2020 and expressed his disappointment with the response received and asked TfGM to conduct an internal review on the handling of his information request. The complainant maintained that in relation to questions that he posed requesting specific numbers, TfGM should have responded with a specific number.
7. TfGM provided the complainant with the outcome of its internal review on 17 July 2020. It accepted that the response to some of the queries could have been clearer. TfGM clarified its position in relation to parts 1, 2, 4 and 6 of the request where it had the information available. However it did not change its position in relation to the substance of its initial response regarding the information it did not hold. TfGM considered that it disclosed all the information it held within the scope of this request. In summary, the TfGM's internal review concluded:
- in response to part 1 of the request, it stated - no charging points had been installed by April 2020;
  - in response to part 2 of the request, it stated - no charging points had been installed by April 2020;
  - in response to part 3 of the request it provided a table which showed the number of charging points planned to be installed and their locations;
  - in response to part 4 of the request, it stated - the answer to the complainant's original question is zero;
  - in response to part 5 of the request, it advised that TfGM had not undertaken an analysis of motorists' ability to charge their vehicles from their home electricity supply for any specific areas of Greater

Manchester. Therefore, TFGM maintained that it did not hold the information requested. However, to assist the complainant it provided a further link to an external website which lead to documents that it considered contain relevant information in relation to this part of the request;

- in response to part 6 of the request, it stated *"I can confirm that the EV Charging Posts that will be deployed are the Raption 50 Models from Swarco which have a maximum 45kW DC output and 11kW AC output."*; and
- in response to part 7 of the request, it stated *"that of the £3m grant received, £0.6m has been spent to date on staff costs including all activities around the preparation of the EV charging infrastructure and the promotion of Electric Vehicles. It is estimated that £0.7m will be spent on staff costs by the end of the project."*

## Scope of the case

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8. The complainant contacted the Commissioner on 28 July 2020 to complain about the way his request for information had been handled. He stated that he was not content with TfGM that it had disclosed all the information it held within the scope of the request.
9. During the course of the Commissioner's investigation, TfGM agreed that the correct access regime for the request was the EIR as opposed to FOIA.
10. From the submissions received from the complainant, the Commissioner concluded that that he was satisfied with the response to part 3 of his request.
11. Since the formulation of parts 1, 2, 4 and 6 of the request were formulated in such a manner that the complainant sought a specific number and TfGM in its internal review outcome provided those answers, the Commissioner understands that these parts of the request have been complied with in full and they are not covered in the analysis below.
12. The following analysis covers whether TfGM stated correctly that it did not hold any information within the scope of part 5 and that it held no further information within the scope of part 7 of the complainant's information request.

## Reasons for decision

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### Regulation 2 – Is the requested information environmental?

13. Environmental information must be considered for disclosure under the terms of the EIR rather than the FOIA. Regulation 2(1)(c) of the EIR defines environmental information as any information on:

*"measures (including administrative measures) such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in [2(1)](a) and (b) as well as measures or activities designed to protect those elements."*

14. The request in this case is for information relating to the plans for installing electric charging points for vehicles. The Commissioner is satisfied that the requested information is on a measure that would, or would be likely to, affect the elements listed in regulation 2(1)(a) and is, therefore, environmental under regulation 2(1)(c).

### Regulation 5(1) – Duty to make environmental information available on request

15. Regulation 5(1) of the EIR states that *"a public authority that holds environmental information shall make it available on request."* This is subject to any exceptions that may apply.
16. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check whether the requested information was held, and any other reasons offered by the public authority to explain why the information was not held. She will also consider any reason why it is inherently likely, or unlikely, that the requested information was not held.
17. For clarity, the Commissioner is not expected to prove categorically whether the information was held, she is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities. This is in line with the Tribunal's decision in *Bromley v the Information Commissioner and the Environment Agency (EA/2006/0072)* in which it stated that: *"there can seldom be absolute certainty that information relevant to a request does not remain undiscovered somewhere within a public authority's records"*. It clarified that the test to be applied as to whether or not information is held was not certainty but the balance of probabilities.

18. It is also important to note that the Commissioner's remit is not to determine whether information *should* be held, but only whether, on the balance of probabilities, the requested information *was* held by TfGM on the date the request was received.
19. As part of her investigation, the Commissioner wrote to TfGM requesting submissions in respect of a number of questions relating to the complainant's information request. The Commissioner's questions were focused on TfGM's endeavours in providing the requested information to the complainant, its searches conducted in relation to the complainant's request, and whether any information falling within the scope of the requests was deleted or destroyed.
20. TfGM told the Commissioner that when it considered the complainant's request it consulted the Greater Manchester Clean Air Plan Delivery Lead, Electric Vehicle Charging Infrastructure project team and the Transport Strategy team. TfGM added that *"as the provision of electric vehicle charging is a relatively new area of work within TfGM, all information regarding electric vehicles is held by the Electric Vehicle Charging infrastructure team who were consulted."*
21. In relation to part 5 of the complainant's request, TfGM explained that for the purposes of the bid for government funding, there was no need to identify the number of households who could not charge at home in specific areas. It stated that the explanations provided to the complainant were based on an analysis that TfGM commissioned in terms of future provision of electrical vehicle charging infrastructure, in Greater Manchester. However, TfGM stated that *"this work was not disaggregated by geography within Greater Manchester and was not based on any research of the Greater Manchester market. Therefore, this analysis did not answer the question raised by the requestor."* TfGM confirmed that its searches concluded that it did not hold the specific information, in recorded form, requested by the complainant.
22. In relation to part 7 of the complainant's request, TfGM confirmed that it had revisited this part of the request and concluded that the information provided in its initial response and the outcome of its internal review was accurate and the only information held within the scope of the complainant's request, at the time when the request was made.
23. TfGM stated that as the provision of electric vehicle charging is a relatively new area, all the relevant information of this nature within TfGM is held in electronic form by the Electric Vehicle Charging infrastructure team, and the relevant officers within this team were consulted.

24. In response to the question whether any information within the scope of the request was deleted or destroyed, TfGM explained that *"The Electric Vehicle Infrastructure project is a relatively recent project and therefore no relevant information would have been deleted/destroyed. The information provided to [the complainant] in TfGM's previous responses constitutes everything that TfGM had available as of April 2020."*
25. TfGM explained that it has a retention schedule that is predicated on Local Government Association Schedules and it provides that the records related to projects information should be retained for a minimum five years following the completion of every project. Regarding financial records, relevant to the complainant's request, TfGM stated that *"financial records that provide the source data for the Early Measures Cost Analysis should be kept for 1 year plus 6 years as per the Limitations Act 1980."*

### ***The Commissioner's view***

26. The Commissioner has examined the submissions of both parties. She has considered the searches performed by TfGM, the information it disclosed, TfGM's explanations as to why there is no further information held and the complainant's concerns.
27. Having considered the formulation and the scope of the request, the Commissioner is satisfied that TfGM carried out necessary searches to identify the requested information that was held at the time of the request.
28. The Commissioner appreciates the complainant's concerns, however, in the absence of evidence to the contrary, the Commissioner is satisfied that TfGM has provided the complainant with all of the relevant information which it held, falling within the scope of the request.
29. Therefore, the Commissioner is of the view that, on the balance of probabilities, TfGM did not hold the information requested within the scope of part 5 and disclosed all the information it held within the scope of part 7 of the request.

## Right of appeal

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30. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

31. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**