

Len Duvall AM, Chair of the GLA Oversight Committee

**Sir Peter Hendy CBE**

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Dear Sir Peter

**Transport for London consultation on transparency – Assembly response**

Please find attached the response to the TfL consultation on transparency, undertaken on behalf of the London Assembly by the GLA Oversight Committee.

Yours sincerely



**Len Duvall AM**

Chair of the GLA Oversight Committee



## Transport for London consultation on transparency – Assembly response

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### Recognising progress

TfL has become a more transparent organisation in recent years, and we recognise the progress that has been made. Improvements that the Assembly and its committees have particularly welcomed include:

- Changes to the quarterly operational and financial performance report and investment programme report, which now provide useful information in an accessible format.
- More information published in the papers of TfL's Board, committees and panel meetings.
- The publication of TfL's fares advice to the Mayor for his 2015 fares decision, and the commitment to publish this routinely in future.
- The commitment to include transparency clauses in contracts, and the publication of sponsorship contracts such as for the cycle hire scheme (with Santander) and the baby on board badges (with Not on the High Street).
- More detailed and considered responses to recommendations made by the Assembly's committees.

### TfL's organisational culture

These improvements have enabled the Assembly and others to scrutinise TfL's activities more effectively. It should be noted that many of these changes have taken place because of the Assembly's pressure over a number of years, most notably on the annual fares decision. And it is not yet clear that TfL's organisational culture is changing to fully embrace the transparency agenda. True transparency is more than strictly adhering to a list of rules about what information needs to be published. It must start from a belief that TfL and the public are on the same side. TfL should be publishing information on the basis of what the public would like to know instead of what TfL is required to tell them.

We therefore feel that the next challenge for TfL is to think about how it can explain its decisions in a more open manner. For example, when a major or potentially contentious new contract is agreed, TfL should publish its evaluation of the bids and the basis for making the decision. We were pleased to see TfL's commitment to publish this information for the new cycle hire sponsorship deal, and we look forward to seeing it.<sup>1</sup> This approach should become routine across the organisation.

### The Independent Investment Programme Advisory Group (IIPAG)

The Transport Committee and the Budget and Performance Committee have both expressed concerns about the lack of transparency at IIPAG – particularly at the refusal to publish more than a single report each year summarising its work. In response, the Mayor has stated that “the interests of transparency of course have to be balanced against IIPAG's ability to examine and comment frankly on issues, including commercially confidential matters. I would not wish the effectiveness of IIPAG's advice to TfL and the TfL Board to be compromised by a prior agreement to publish their conclusions.”<sup>2</sup> The argument about commercial confidentiality is

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<sup>1</sup> Letter from Graeme Craig, TfL Director of Commercial Development, to John Biggs AM, Chair of the Budget and Performance Committee, 5 February 2015 [www.london.gov.uk/sites/default/files/TfL%20response.pdf](http://www.london.gov.uk/sites/default/files/TfL%20response.pdf)

<sup>2</sup> Letter from the Mayor to John Biggs AM, Chair of the Budget and Performance Committee, 12 January 2015 [www.london.gov.uk/sites/default/files/John%20Biggs%20AM%20Letter%20from%20the%20Mayor.pdf](http://www.london.gov.uk/sites/default/files/John%20Biggs%20AM%20Letter%20from%20the%20Mayor.pdf)

frequently rolled out to defend the status quo, but we can see no reason why underperformance by TfL or its contractors should be hidden from sight.

We believe that greater transparency would enable the Assembly to scrutinise TfL and its contractors more effectively, and provide the public with greater confidence that its fares and taxes are being put to best effect. For example, the public is still in the dark about the management of the Bombardier signalling contract and why it went so wrong. The Transport Committee wrote to the Mayor in October 2014 to express its concern that IIPAG's views were not made public at the time.<sup>3</sup> Sight of IIPAG's reviews would help clarify how early the risks associated with the signal contract were identified and how quickly management responded. Without a full picture of what went wrong and why, the public cannot be confident that a similar situation will not occur again in the future

### **Freedom of Information Act requests**

TfL answers approximately 2,500 Freedom of Information Act (FOI) requests each year, with nine out of ten answered within the statutory deadlines. This is good performance compared to many other organisations in the public sector. It seems a waste that this information is not made more widely available, and we recommend that TfL should publish this information within the Transparency section of its website. As a minimum it should publish a log of requests and responses, as the core GLA does (see [www.london.gov.uk/mayor-assembly/gla/governing-organisation/freedom-information/disclosure-log/2015](http://www.london.gov.uk/mayor-assembly/gla/governing-organisation/freedom-information/disclosure-log/2015)).

It would be more helpful, however, if TfL made this information fully searchable to make it easier for users to track down relevant material. As well as being a help for users, this could reduce the administrative burden for TfL in reducing requests for the same information. If Redbridge Council is able to provide a simple FOI search facility (see <http://data.redbridge.gov.uk/View/council-information/freedom-of-information-requests>) we do not see why TfL – and other bodies within the GLA Group – cannot do this as well.

### **TfL Board meetings**

The Budget and Performance Committee has previously expressed concerns about the transparency of the decision-making processes at the TfL Board and its committees – most notably in its report into sponsored transport schemes. More recently, a TfL Board meeting was adjourned in the middle of an item on cycle superhighways to allow Board Members with a conflict of interest to present their opinions. This was an unusual and unwelcome development. While the discussion is recorded on the webcast, it will not be included in the meeting minutes and does not form part of the public record. We hope that, in future, conflicts of interest are managed more carefully to avoid the perception that standards of governance are being deliberately circumvented. As part of its planned examination into the Board's effectiveness this year, TfL needs to look at ways to maximise its transparency.

### **TfL's relationship with the Assembly**

TfL must work harder to fulfil its commitment to respond to requests for information from the Assembly within 20 days, as agreed in response to the GLA Oversight Committee's report on GLA Transparency. TfL has failed to achieve its 20 day response target more often than it has achieved it regarding requests for information from the Budget and Performance Committee.

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<sup>3</sup> Letter from Caroline Pigeon AM, Chair of the Transport Committee, to the Mayor, 23 October 2014 [www.london.gov.uk/sites/default/files/Letter%20to%20Mayor%20on%20Tube%2023%20October%202014%20282%29.pdf](http://www.london.gov.uk/sites/default/files/Letter%20to%20Mayor%20on%20Tube%2023%20October%202014%20282%29.pdf)

Given the importance of timeliness for effective scrutiny – particularly where information is needed in advance of committee meetings – it can appear as though TfL is deliberately stifling the Assembly’s scrutiny activities.

TfL has struggled to consistently meet deadlines for responding to reports from the Assembly’s committees. For example, TfL did not respond to the Transport Committee’s October 2013 report, *Bus Services in London*, until April 2014. And it did not respond to the Transport Committee’s April 2014 report, *Feet First*, until August that year. TfL needs to ensure that it responds to the Assembly more quickly in future – it may need to look at streamlining its internal clearance processes as part of this.

TfL is also failing to respond to questions from Members – both in terms of Mayor’s Questions and casework – quickly enough. Holding replies are sent out but Members are forced to chase for responses, and there is a perception that TfL’s performance in this regard is getting worse, not better. The speed with which information is provided is something that TfL needs to bear in mind as it develops its strategy.

### **Confidentiality agreements**

Perhaps unsurprisingly, little is known about TfL’s use of confidentiality agreements. These can be used to prevent employees and former employees from publicly discussing issues relating to themselves, for example the circumstances of employment tribunals. They can also be used to prevent contractors and suppliers from releasing information that might be in the public interest. It would be helpful if TfL’s transparency strategy could outline how TfL currently uses these kinds of agreements, and how it intends to use them in the future.

### **The importance of transparency**

The Assembly understands that TfL’s primary focus should be on meeting the needs of its passengers. But public accountability and transparency play an important part in making that happen. We believe that greater transparency encourages better decision-making, and that this will ultimately benefit passengers. We recognise that TfL has become more transparent in recent years, and we applaud the individuals within TfL and the GLA that have driven that change. But TfL needs to become an organisation that behaves transparently not simply because it has to, but because it really understands the value in doing so. We welcome the development of a new transparency strategy at TfL, and hope to be invited to comment on a draft strategy in due course.