



**Date: 8 December 2015**

**Item: Legal Compliance Report (1 April 2015 – 30 September 2015)**

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**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 April 2015 to 30 September 2015.

**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 April 2015 and 30 September 2015. 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, 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 graphs included in this report follow the six monthly Legal Compliance reporting periods from April to September and October to March. The graphs commence in the reporting period covering October 2013 – March 2014. Each period includes any ongoing matters carried over from previous reporting periods where applicable. In accordance with TfL’s commitment to transparency, the legal compliance report is included in this public paper.

## 5 Commentary on Legal Compliance Issues

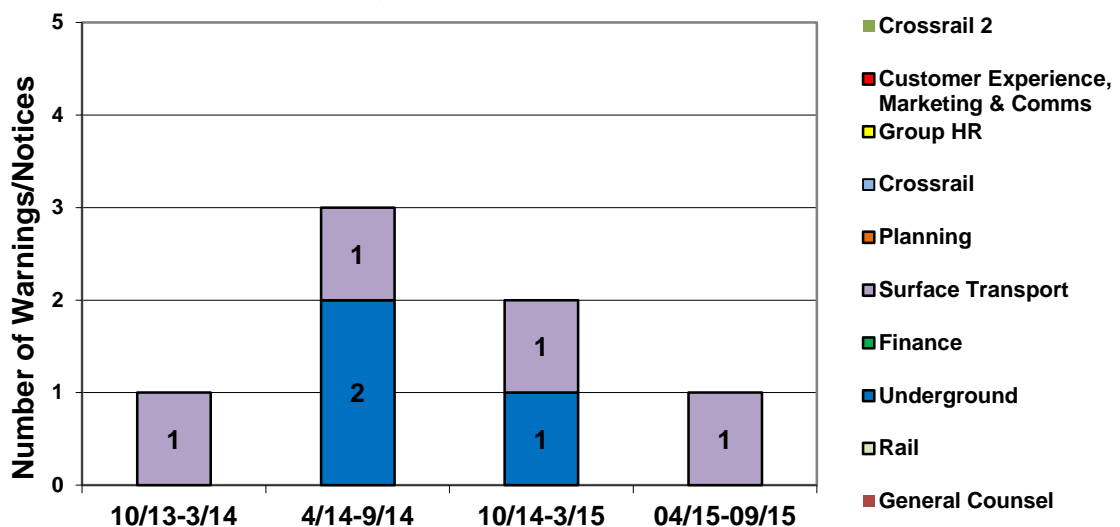
### Notification of Intention to Prosecute

5.1 No notifications of prosecution have been received during this period.

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

5.2 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 warning or notices have been issued to date.

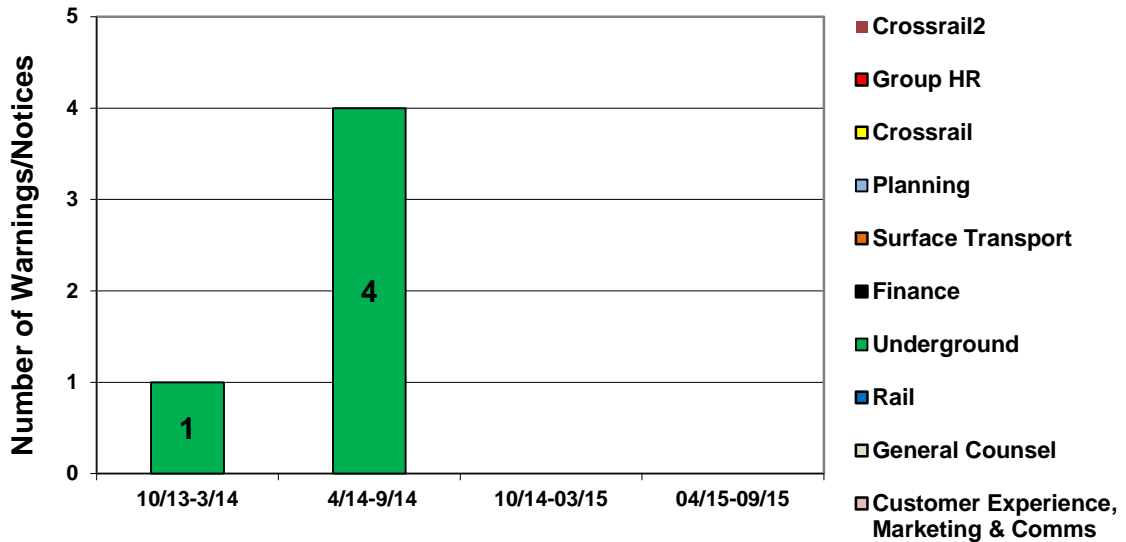
HSE/ ORR Formal Warnings or Notices



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

5.3 No warnings or notices were reported for this period.

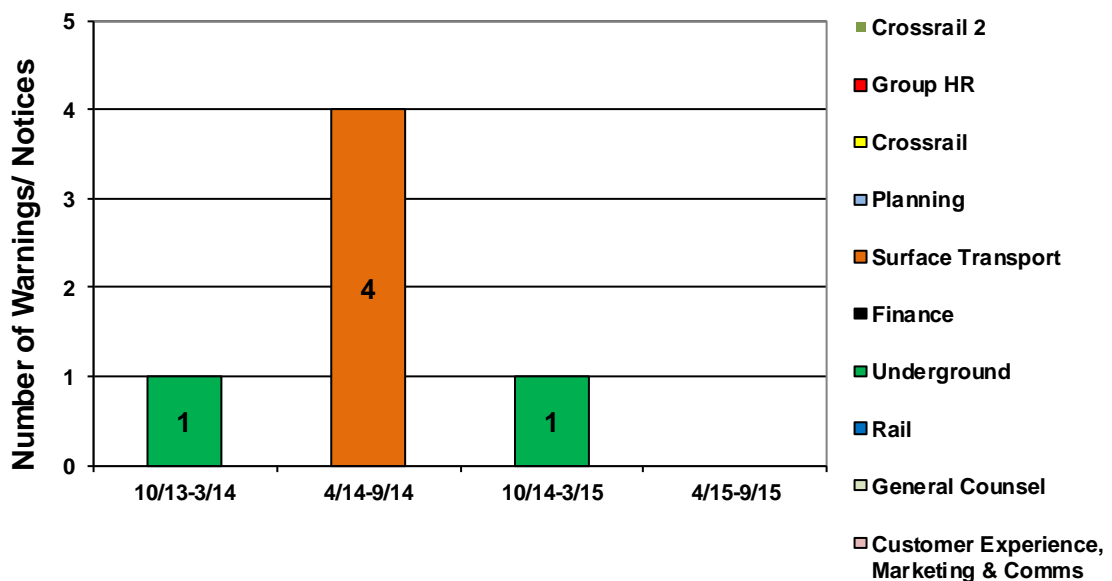
## LFEPA Formal Warnings/Notices



## Formal Warnings or Notices from the Environment Agency

5.4 No formal warning or notices were reported during this period.

## Environment Agency Formal Warnings/Notices



## Formal Warnings or Notices from the Information Commissioner

5.5 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).

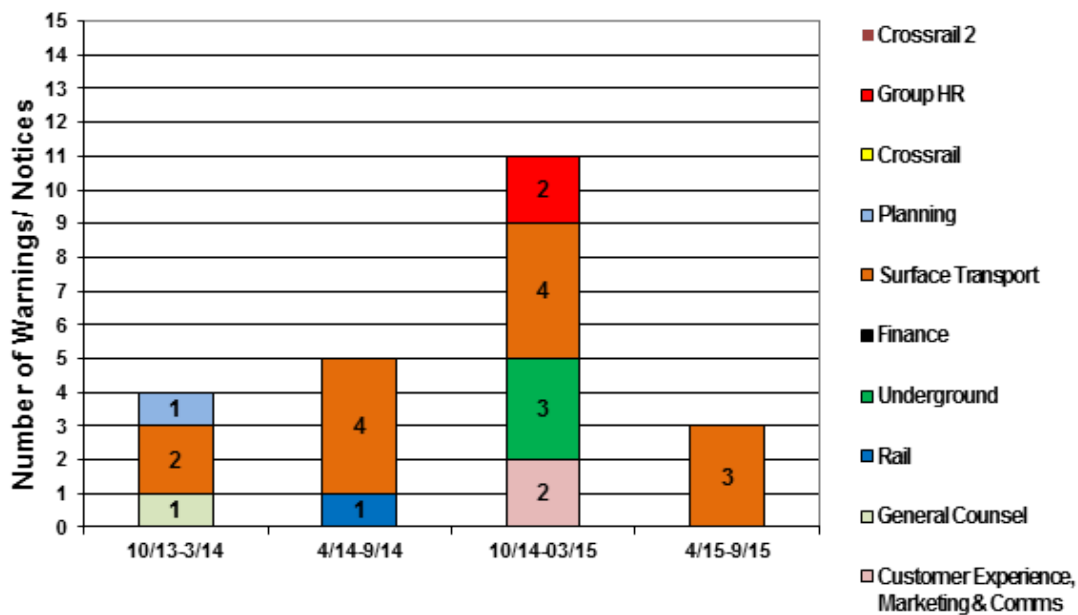
5.6 The FOIA and the EIRs give a general right of access to information held by public authorities. Public authorities are generally required to respond to requests for information within 20 working days and provide the requested information unless an exemption applies. Any person who has made a request 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).

- 5.7 TfL received 2,216 requests under the FOIA and EIRs in 2014/15 and responded to 87.2 per cent of such requests within the statutory time limit.
- 5.8 Between 1 April 2015 and 30 September 2015, the ICO took regulatory action on three occasions, by issuing a Decision Notice (DN), in response to complaints made to them about the handling of FOIA and EIR requests received by TfL.
- 5.9 One DN found in TfL's favour and related to the refusal of requests regarding the C10 bus and Canada Water bus station on the basis the requests were vexatious.
- 5.10 The second DN upheld a complaint against TfL. The complaint arose from an FOI request, related to Taxi enforcement, which was not answered by TfL within 20 working days. This request was answered before the DN was issued so TfL was not required to take any further action.
- 5.11 The third DN partially upheld a complaint. The requester had asked for information about positive action campaigns taken by TfL to encourage people from ethnic minorities to become taxi drivers. The ICO found that TfL had dealt with the request in accordance with the Act except in respect of one element, which had asked for information on where a claim for compensation could be submitted. TfL had argued that the response would depend on which organisation the complainant believed he had a claim against, but the ICO found that the address for claims against TfL should have been provided. The ICO found that the complainant had accessed the information he needed and TfL were not required to take any further action. The complainant has appealed against the ICO DN to the Information Tribunal.
- 5.12 During this period TfL was notified of three new complaints by the ICO regarding TfL's handling of FOI and EIR requests.
- 5.13 One of the new complaints has been resolved informally and related to TfL's failure to provide a response to an FOI request. The response has now been provided and the case is not being pursued further by the ICO.
- 5.14 The second new complaint related to TfL's failure to provide a response to an EIR request in respect of a planning application for a McDonald's restaurant. The ICO has been informed that the response has been sent but the complaint has not yet been closed.
- 5.15 A third new complaint concerns TfL's refusal on cost grounds to answer a series of questions about exemptions to the LEZ for persons who belong, or do not belong, to the Showman's Guild. The matter is still ongoing.
- 5.16 As previously reported, there is an outstanding case with the Upper Tier Tribunal. The ICO had issued a DN in January 2013 upholding TfL's use of the FOI cost limit to withhold information relating to the ethnic origin of those involved in grievance proceedings. The requester appealed to the First-Tier Tribunal (Information Rights) and the Tribunal dismissed the appeal on 3 December 2013. The requester sought leave from the Upper Tribunal to appeal this decision and this was granted at a hearing on 1 August 2014. TfL has now submitted representations to the Tribunal. The Appellant has submitted partial representations and is seeking further time extensions having been given two already. A date for the appeal hearing is awaited.
- 5.17 No formal action was taken by the ICO between 1 April and 30 September 2015 in connection with TfL's compliance with the DPA.
- 5.18 During this period, the ICO notified TfL of three new complaints from individuals who considered that TfL had failed to process their personal data in accordance

with the DPA.

- 5.19 Two of the three new complaints arose from subject access requests (SARs) where the complainant claimed that personal data had not been provided in response to a SAR. One of these cases related to a Penalty Charge Notice where the data had in fact been provided to the requester. The ICO found that TfL had not breached the DPA and no further action was required.
- 5.20 The second SAR complaint arose from a request for CCTV footage that had not received a response and the ICO required TfL to reply within 14 days. TfL acknowledged to the requester that it had failed to comply with the DPA and the ICO required no further action.
- 5.21 The third remaining new complaint relates to the disclosure of non-medical information to Occupational Health and an allegation of inappropriate disclosure and use of medical data. This case is still open.
- 5.22 There was one outstanding DPA complaint from the previous report, relating to the publication of medical conditions on the licences issued to taxi drivers. TfL has revised the wording that is used and the ICO has approved the new version on the basis that it does not contain the level of detail that was the cause of the complaint. The ICO has not required, or taken, any further action.

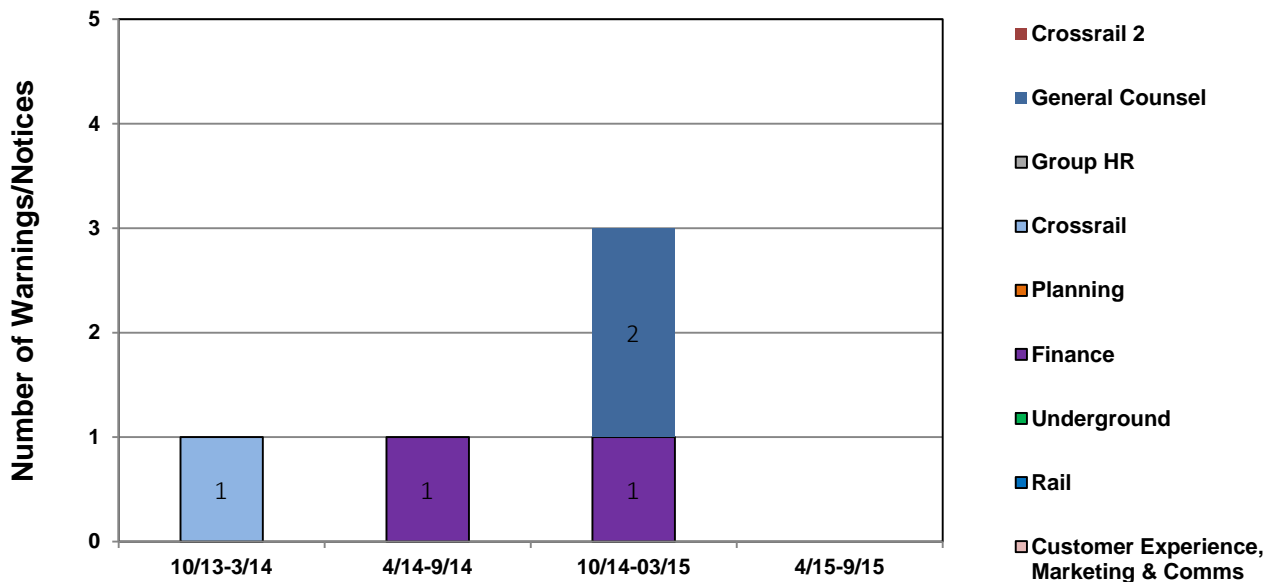
Information Commissioner Formal Warnings/Notices\_



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

- 5.23 No formal warnings/notices were received during this period.

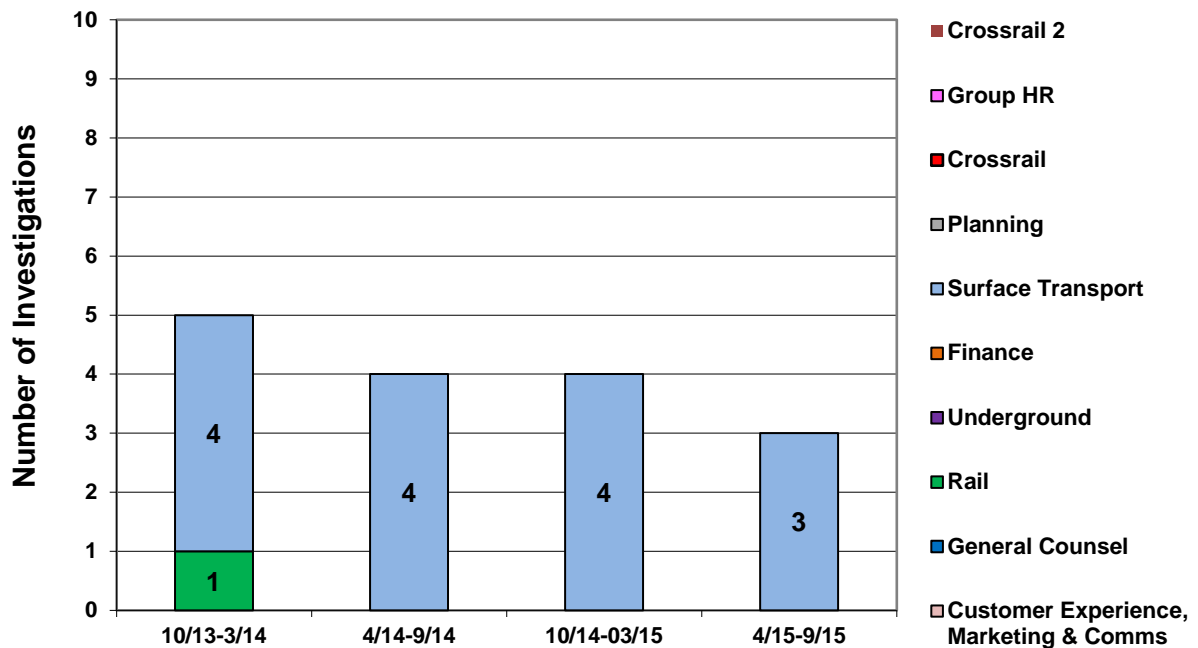
Other Government Agencies Formal Warnings/Notices



### Investigation by an Ombudsman

- 5.24 Surface Transport reported one outstanding investigation from the last report and two new investigations. The outstanding investigation relates to TfL’s administration of a Congestion Charging Penalty Charge Notice and the conduct of TfL’s contracted bailiffs. The two new investigations relate to the licenced London Taxi Driver assessment process and antisocial behaviour as a result of a bus stop outside a property.
- 5.25 In the outstanding investigation, the Local Government Ombudsman (LGO) closed the investigation on the basis that no maladministration was found.
- 5.26 In the first new investigation, the LGO was satisfied that the assessment process was robust.
- 5.27 In the second new investigation the LGO found that TfL was not at fault. TfL was not informed by Havering Council of the complainant’s objection to keep the bus stop in its current location before starting refurbishment works. TfL has agreed to take the complainant’s concerns to Havering Council for consideration.

Investigations by Ombudsman



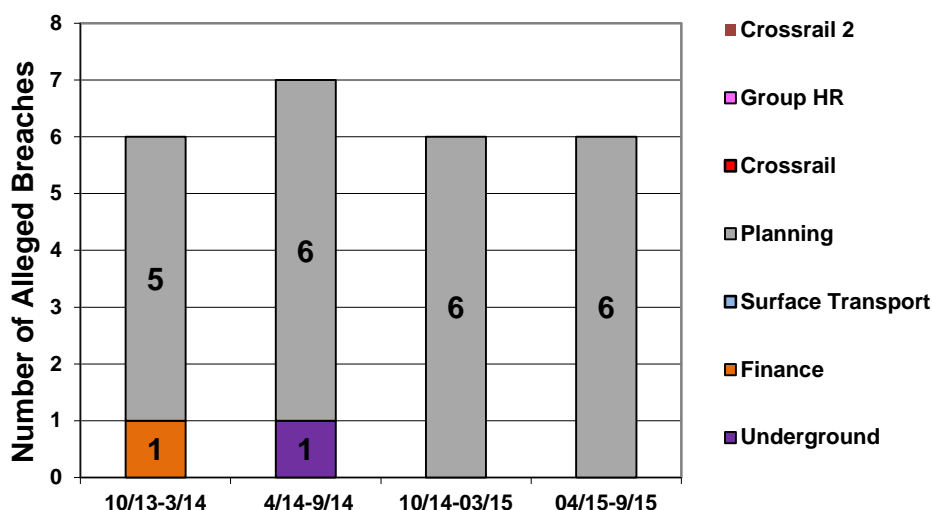
### Notices Received Regarding any Alleged Breach of Law by a Local Authority or Other External Agency

- 5.28 Planning reported five outstanding notices from the previous reporting period and one new notice in the current period. The first outstanding notice was a Decision Notice of an Enforcement Appeal received on 25 October 2013 regarding the installation of a new shopfront, awning and roller shutter at 42-43 Haven Green. TfL wrote to the tenant to remind them of their obligation to comply with the decision and requested confirmation that the appeal decision has been complied with. TfL continues to monitor the matter.
- 5.29 The second outstanding notice received on 25 February 2014 was an Enforcement Notice from 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 has written to the tenant to remind them of their lease obligations and the risk of prosecution by the London Borough of Haringey. The tenant then lodged an appeal with the Planning Inspectorate. During this period, the Enforcement Notice has been stayed while a newly appointed property management company prepares proposals for the frontages of the properties and all the adjacent properties.
- 5.30 The third outstanding notice received on 28 March 2014 was an Enforcement Notice from London Borough of Tower Hamlets regarding the removal of unauthorised hoardings, satellite dish and fascia panel at 193-195 Whitechapel Road E1. TfL wrote to the tenant to remind them of their lease obligations. The tenant has now completed the works and the matter is closed.
- 5.31 The fourth outstanding notice received on 16 April 2014 was an Enforcement Notice from London Borough of Tower Hamlets regarding the removal of an unauthorised shop front, shutter and awnings and to reinstate a timber framed shop front at 285 Whitechapel Road. The tenant has drawn up plans for the shop front and has until 1 December 2015 to complete the works. TfL continues to monitor the matter.
- 5.32 The fifth outstanding notice received in July 2014 was an Enforcement Notice

from London Borough of Tower Hamlets regarding the unauthorised change of use of the premises. TfL wrote to the tenant to remind them of their lease obligation. London Borough of Tower Hamlets confirmed that the tenant has since lodged an appeal with the Planning Inspectorate and a decision is awaited. TfL continues to monitor the matter.

- 5.33 The new notice received in August 2015 was from Westminster City Council for removal of an unauthorised temporary electrical cabinet at Terminus Place. The cabinet has been removed. TfL has submitted a planning application for the installation of the electric cabinet to Westminster City Council and awaits approval.
- 5.34 Since the end of the reporting period, Rail and Underground reported a fixed penalty notice received on 2 October 2015 from the London Borough of Havering regarding TfL Rail deposit of litter outside Romford Station in breach of the Environmental Protection Act 1990. This was due to litter collection difficulties with contractors. The fixed penalty notice has been paid and TfL Rail has implemented improved litter management processes at stations to ensure there is no repeat.

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



#### Decisions Subject to a Judicial Review

- 5.35 Surface Transport previously reported that Eventech Limited (a subsidiary of Addison Lee) was granted permission to bring a judicial review against the London Borough of Camden's Parking Adjudicator's decision not to allow Private Hire Vehicles (PHV) the same rights as Hackney licensed vehicles to use bus lanes. In April 2012, TfL successfully obtained an injunction preventing Addison Lee from causing, encouraging or assisting PHV drivers to use bus lanes marked for use by taxis. The Court also declared the indemnity Addison Lee had offered to drivers in respect of bus lane fines and liabilities to be void and unenforceable. The hearing took place on 19-21 June 2012 and the application was refused on all grounds and Eventech Limited was ordered to pay TfL's costs of defending the claim.
- 5.36 Eventech Limited then made an application for permission to appeal the decision and this was granted on 6 December 2012. The Court of Appeal hearing took place on 23 and 24 May 2013. On 29 September 2013 the Court of Appeal issued an Order referring the State aid questions raised to the European Court of Justice (ECJ). The appeal was adjourned pending the outcome of the ECJ hearing which was held on 3 July 2014. On 24 September 2014, the Advocate General, who

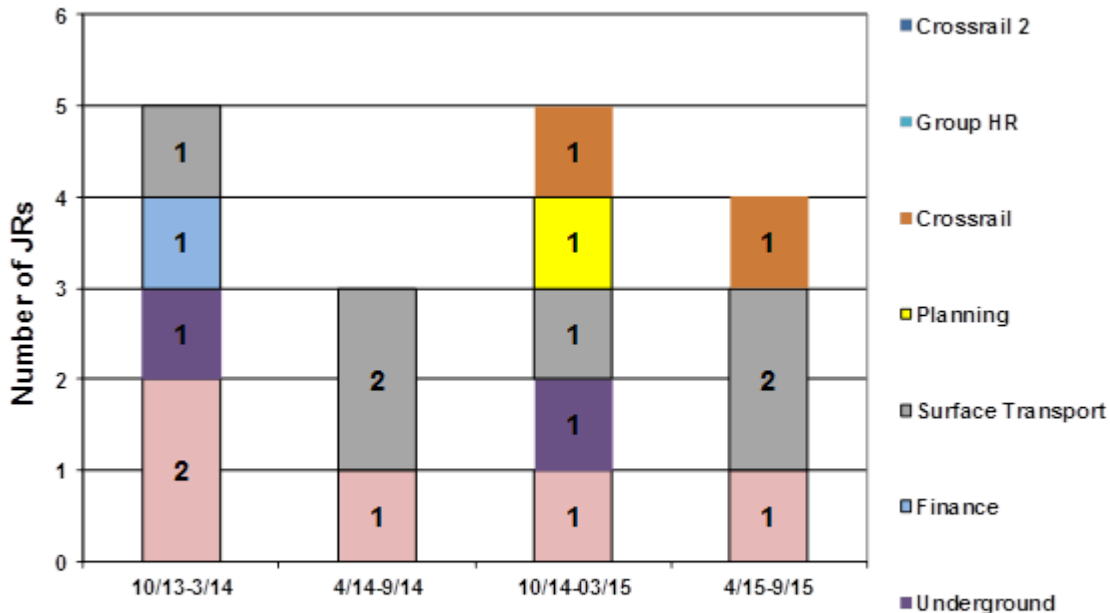


represents the EU's interests, issued its opinion to the ECJ. The Opinion concluded that if TfL can show that black cabs and PHVs are not legally and factually comparable on grounds of safety and efficiency (which the Advocate General suggests may well be the case), no question of State aid arises by allowing taxis but not PHVs to use the bus lanes during certain hours of the day.

- 5.37 On 14 January 2015, the ECJ gave its judgment on the State aid issues. The ECJ's decision concluded that making bus lanes available to taxis and not PHVs in order to establish a safe and efficient transport system does not appear of itself to amount to State aid. The judgment also states that the policy may conceivably affect State trade but this finding alone would not affect the conclusion overall that the policy does not appear to the ECJ to give rise to State aid.
- 5.38 The Court of Appeal will now determine the State aid issue (which must take into account the ECJ's ruling) and whether the policy breached freedom of movement of services and the principle of equal treatment. A decision of the Court of Appeal is awaited.
- 5.39 Surface Transport has reported that on 13 August 2015 TfL received a claim for judicial review made by the London Taxi Drivers' Association (LTDA) seeking a declaration that the ongoing construction of the East-West Cycle Superhighway, without planning permission, is in breach of planning control. TfL is defending the claim. Since the period end, on 2 October 2015, TfL received notification that a hearing will take place on 13-14 January 2016.
- 5.40 Customer Experience, Marketing and Communications previously reported a judicial review application arising out of a decision not to allow an Anglican Mainstream/ Core Issues Trust (CIT) advert on London's buses. The claim was initially issued against the Mayor but TfL was substituted as the Defendant. The hearing took place on 28 February and 1 March 2013. On 22 March 2013 the claim was dismissed on all grounds and the Judge held that displaying the advertisement would have been in breach of TfL's duties under the Equality Act 2010. The claimant was also ordered to pay TfL's costs.
- 5.41 Permission to appeal to the Court of Appeal was granted and the appeal hearing took place on 9 and 10 December 2013. On 27 January 2014 the Court of Appeal decided that the decision not to run the advert was justifiable in terms of the Human Rights Act and European Convention provisions on freedom of expression and freedom of religion.
- 5.42 The Court of Appeal awarded TfL 75 per cent of its costs for both the first hearing and the Court of Appeal hearing.
- 5.43 The Mayor was added as second defendant and a further hearing took place on 30 June and 1 July 2014. On 30 July 2014, the Judge found that it was TfL rather than the Mayor which took the decision, and while the Mayor had strongly expressed his opinion on the decision, his motivation in doing so was not electoral and not improper.
- 5.44 The Claimant applied for leave from the Court of Appeal to appeal the decision on 14 December 2014 which was refused on papers and again at a hearing on 10 June 2015. We continue to pursue our costs in defending the claim.
- 5.45 Crossrail reported a judicial review application arising out of their decision not to negotiate exclusively with a consortium for the right to develop above the western ticket hall at Tottenham Court Road. It is alleged that Crossrail breached the terms of its Land Disposal Policy. A hearing took place on 3 March 2015 in the High Court at which the claim was not upheld and an application for leave to

appeal was refused. The Consortium applied to the Court of Appeal for leave to appeal which was refused. The Consortium was ordered to pay Crossrail's costs.

### Judicial Reviews



### Inquests

- 5.46 London Underground has been involved in 29 inquests, seven of which have been carried forward from the previous report and 22 inquests have been included in this report for the first time.
- 5.47 Of the seven inquests carried forward from the previous report, three were suicides, and four are awaited. Of the 22 new inquests reported, two were accidents, two were open verdicts, three were suicides, one was a narrative verdict and 14 are awaited.
- 5.48 London Rail reported one inquest carried forward from the previous report. A date for the inquest is set for 11 January 2016.
- 5.49 Surface Transport reported ten outstanding inquests in the last report. The first related to a fatal accident on board the Woolwich Ferry that occurred on 3 August 2011. The Marine Accident Investigation Branch published their report on 16 August 2012. The MCA prosecuted Serco Ltd, who were the operators of the ship at the time. Since the end of the reporting period, on 16 October 2015 Serco was found not guilty of failing to take reasonable steps to ensure that the ship was operated in a safe manner contrary to section 100 of the Merchant Shipping Act 1995. However, it was found guilty of failing to ensure the health and safety of workers and other persons so far as is reasonably practicable. Serco was fined £200,000 and ordered to pay £220,000 prosecution costs. The Coroner has resumed his investigation and a date for the inquest is awaited.
- 5.50 The second fatal accident occurred on 24 June 2013 when a male cyclist was hit by a car on Loampit Vale Road. TfL provided a statement of traffic light timings including the details of the phasing delay to the police on 12 December 2013. The inquest took place on 2 September 2015 and the Coroner concluded that death was caused as a result of a road traffic collision.

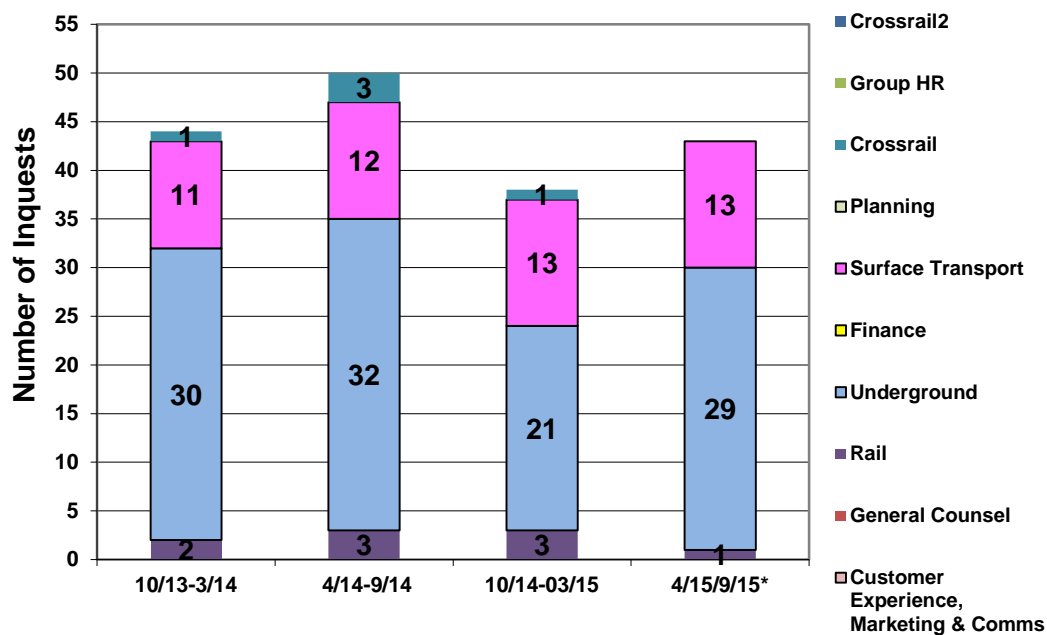
- 5.51 The third fatal accident occurred on 5 November 2013 when a male cyclist was hit by a lorry (working on Crossrail) on Mile End Road. The collision took place on the Cycle Superhighway 2 at a section where it is marked by lengths of unbound blue road surfacing. The inquest set for 8 April 2014 was adjourned pending the outcome of the trial on 27 and 28 April, and 16 June 2015. The driver was found not guilty of causing death by careless driving. On 23 June 2015, the Coroner's Court determined that it was not necessary to resume the inquest.
- 5.52 The fourth fatal accident occurred on 5 March 2014 at Northumberland Avenue when a male motorcyclist was killed in a collision with the central traffic island. The inquest took place on 29 June 2015 at which the Coroner returned a verdict of accidental death. The Coroner issued a Prevention of Future Deaths report to Westminster City Council in relation to its highways inspection regime.
- 5.53 The fifth fatal accident occurred on 22 March 2014 when a female passenger was hit by a bus at Kingston – Cromwell Road. The inquest took place on 18 September 2015, and the Coroner concluded accidental death. The Health and Safety Executive continues to investigate and if there is a subsequent prosecution, the inquest could be re-opened.
- 5.54 The sixth fatal accident occurred on 13 May 2014 when a male cyclist was killed in a collision with an HGV at the southern roundabout at Elephant and Castle. The inquest took place since the end of the reporting period on 19 November 2015 and the Coroner concluded death by road traffic collision.
- 5.55 The seventh fatal accident occurred on 31 May 2014 when a male pedestrian was killed in a collision with a motorcycle whilst crossing the A23 Streatham High Road. The inquest has been adjourned pending the outcome of the prosecution of the motorcyclist.
- 5.56 The eighth fatal accident occurred on 10 October 2014 at Hillingdon Circus when a male pedestrian was killed in a collision with a LU fleet vehicle. The inquest took place since the end of the reporting period on 9 October 2015 and the Coroner concluded death by road traffic collision.
- 5.57 The ninth fatal accident occurred on 17 October 2014 when a female cyclist was killed in a collision with a tipper truck at Ludgate Circus. The inquest is adjourned pending the outcome of the prosecution of the driver for causing death by careless driving. The trial is listed for 14 December 2015.

- 5.58 The tenth fatal accident occurred on 19 February 2015 at Bressenden Place when a female cyclist was killed in a collision with a lorry. The inquest is adjourned pending the outcome of the prosecution of the driver. The trial is listed for 27 November 2015.
- 5.59 Thirteen new fatal accidents were reported since the last reporting period of which six occurred in previous reporting periods but are reported here for the first time as a result of late notification to TfL.
- 5.60 The first new fatal accident occurred on 23 December 2013 in which the male driver and two male passengers were killed when a vehicle hit the central reservation on the A406 North Circular Road. It then collided with a lorry and caught fire. The inquest set for 7 and 8 September 2015 was adjourned pending the outcome of the Coroner's request to the Crown Prosecution Service to reopen its investigations into the deaths.
- 5.61 The second new fatal accident occurred on 3 April 2014 when a male cyclist was killed in a collision with an HGV at Ludgate Circus. The driver is being prosecuted for causing death by careless driving and the trial will take place on 7 December 2015. The inquest is set for 14 December 2015.
- 5.62 The third new fatal accident occurred on 20 July 2014 when a female cyclist was killed in a collision with a vehicle at Kingston Road. The inquest has been adjourned pending the outcome of the prosecution of the driver.
- 5.63 The fourth new fatal accident occurred on 3 August 2014 when a male cyclist was killed in a collision with a vehicle at London Bridge. The inquest took place on 4 June 2015 at which the Coroner concluded death by misadventure. The Coroner issued a Prevention of Future Deaths report to TfL and the Corporation of London concerning the safety of cyclists along London Bridge and improved speed limit signage. TfL responded and agreed to install additional speed limit signs at the north side of the bridge, to consider the spacing between the repeater signs along the route and confirmed that it is likely to begin considering the feasibility of a Cycle Superhighway across London Bridge in 2016.
- 5.64 The fifth new fatal accident occurred on 20 January 2015 when a female cyclist was killed in a collision with a HGV at Amhurst Park/ Seven Sisters Road. The Inquest has been adjourned pending the outcome of the prosecutions of the driver, his employer, London Scrap Metal Recycling Ltd, and its directors. The trial is set for 2 May 2016.
- 5.65 The sixth new fatal accident occurred on 2 February 2015 when a male cyclist was killed in a collision with a HGV at Homerton High Street. The inquest has been adjourned pending the outcome of the prosecution of the driver for causing death by dangerous driving. The trial will take place on 3 December 2015.
- 5.66 The seventh new fatal accident occurred on 9 April 2015 when a female cyclist was killed in a collision with a HGV on Lambeth Bridge. An inquest is awaited.
- 5.67 The eighth new fatal accident occurred on 18 April 2015 when a male motorcyclist and a passenger were killed in a collision with a pedestrian at a crossing at Woodford Avenue. An inquest is awaited.
- 5.68 The ninth new fatal accident occurred on 28 May 2015 when a female cyclist was killed in a collision with a lorry at Denmark Hill. The inquest is set for 11 February 2016.
- 5.69 The tenth new fatal accident occurred on 2 June 2015 when a male cyclist was

killed in a collision with a tipper lorry at Parry Street. The inquest set for 2 October 2015 has been adjourned pending the outcome of the prosecution of the driver.

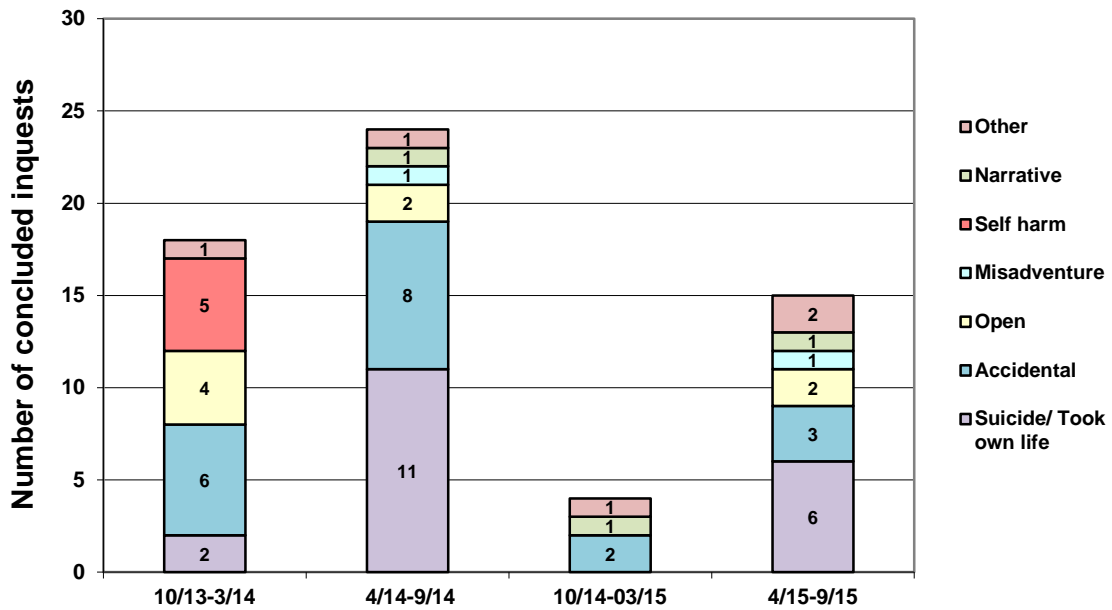
- 5.70 The eleventh new fatal accident occurred on 5 June 2015 when a male pedestrian was killed in a collision with a vehicle at Royal Parade. An inquest is awaited.
- 5.71 The twelfth new fatal accident occurred on 21 June 2015 when a male cyclist was killed in a collision with a vehicle at Forward Drive. An inquest is awaited.
- 5.72 The thirteenth new fatal accident occurred on 22 June 2015 when a female cyclist was killed in a collision with a HGV at Bank Junction. An inquest is awaited.

### Inquests



\* Of the 13 new fatal accidents reported by Surface Transport in this period, six occurred in previous reporting periods but are reported here for the first time as a result of late notification to TfL.

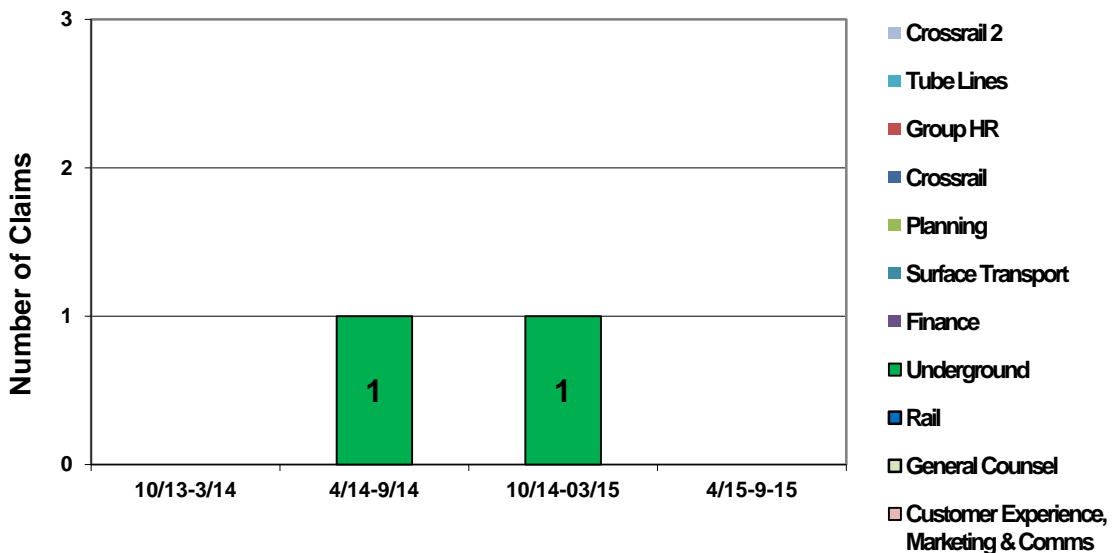
### Inquest Findings



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

5.73 There were no commercial contract claims in excess of £100,000 during this period.

**Commercial/ Contract Claims**



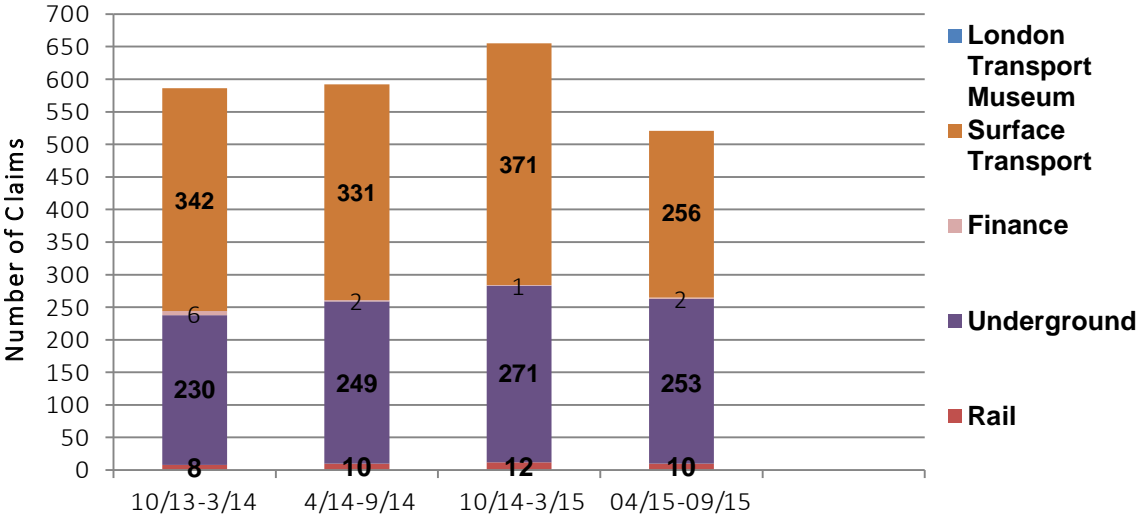
**Personal Injury Claims**

5.74 London Underground has been the subject of 253 claims for personal injury that were closed during the period of this report, of which 44 claims were employers' liability claims by staff and 209 claims were for public liability by customers/members of the public.

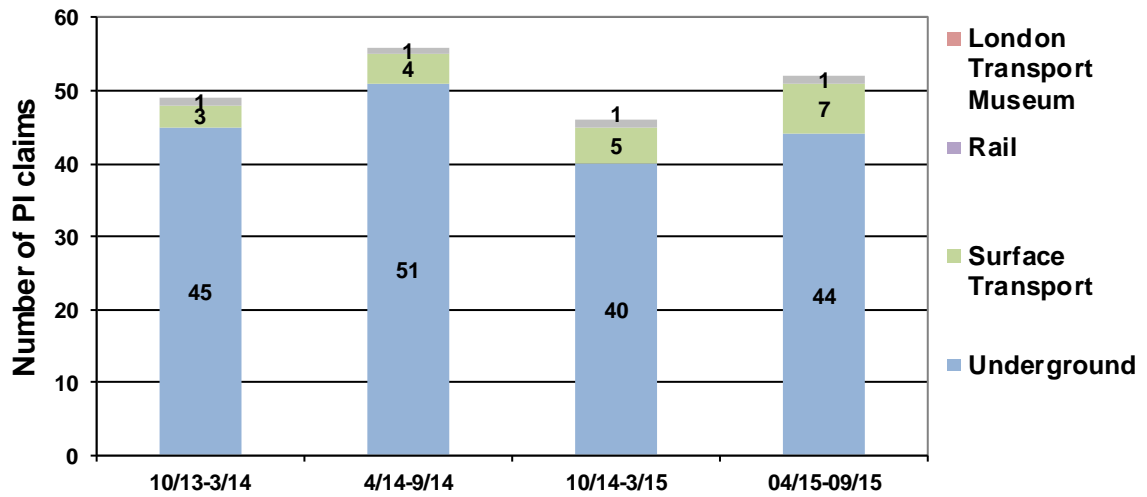
5.75 Of the 209 claims for public liability, 113 were closed without payment and 96 were settled.

- 5.76 Of the 44 claims for employers' liability, nine were closed without payment and 35 were settled.
- 5.77 London Rail has been the subject of ten claims for personal injury that were closed during the period of this report, of which all claims were for public liability. Of the ten claims, three were closed without payment and seven were settled.
- 5.78 Surface Transport has been the subject of 256 claims for personal injury that were closed during the period of this report, of which seven claims were for employers' liability and 249 claims were for public liability.
- 5.79 Of the 249 claims for public liability, 146 were closed without payment and 103 were settled.
- 5.80 Of the seven for employers' liability, one was closed without payment and six were settled.
- 5.81 Finance has been subject to two claims for personal injury that were settled during the period of this report. One was an employer's liability claim and one was a public liability claim.
- 5.82 Out of the 521 personal injury claims closed by TfL during this period, 255 were closed without payment and 266 were settled. There was a decrease of 134 personal injury claims closed for this reporting period compared to the 655 claims closed and reported in the last reporting period (1 October 2014 – 31 March 2015).

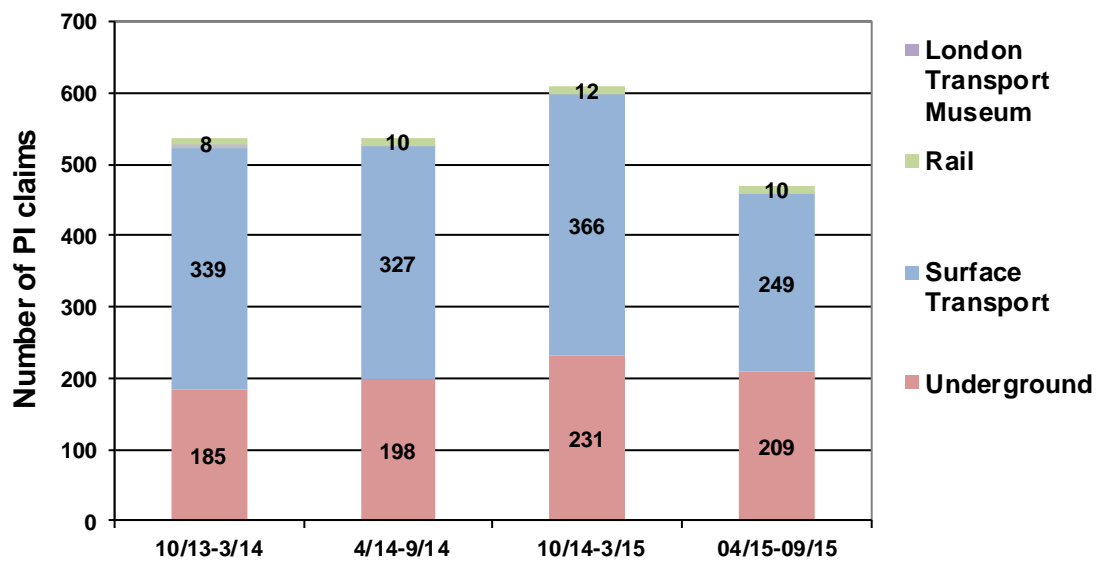
Personal Injury Claims Concluded in the Reporting Period



Personal Injury Claims – Concluded Employers' Liability (Staff)

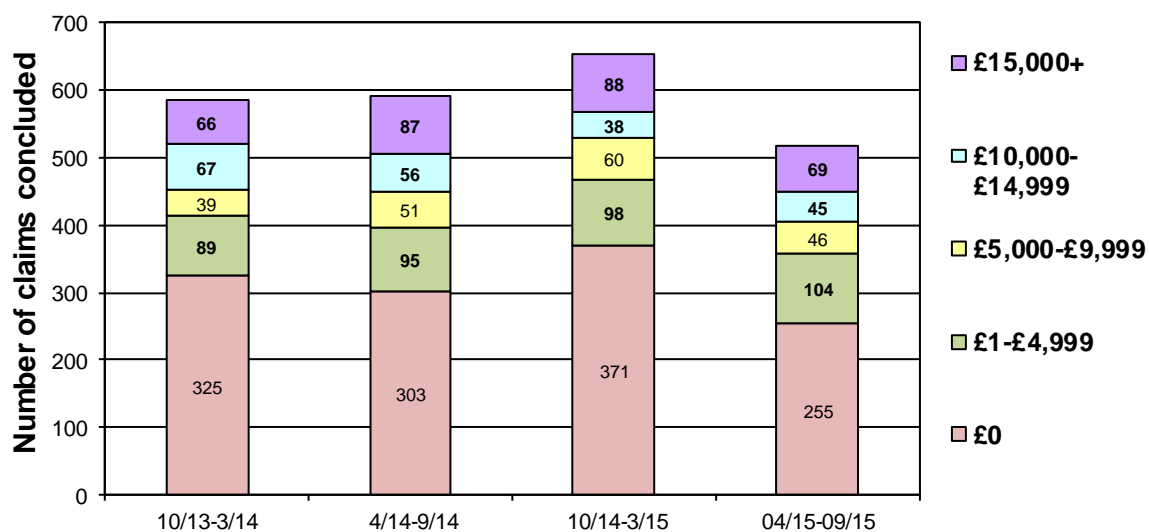


Personal Injury Claims – Concluded Public Liability (Customers)



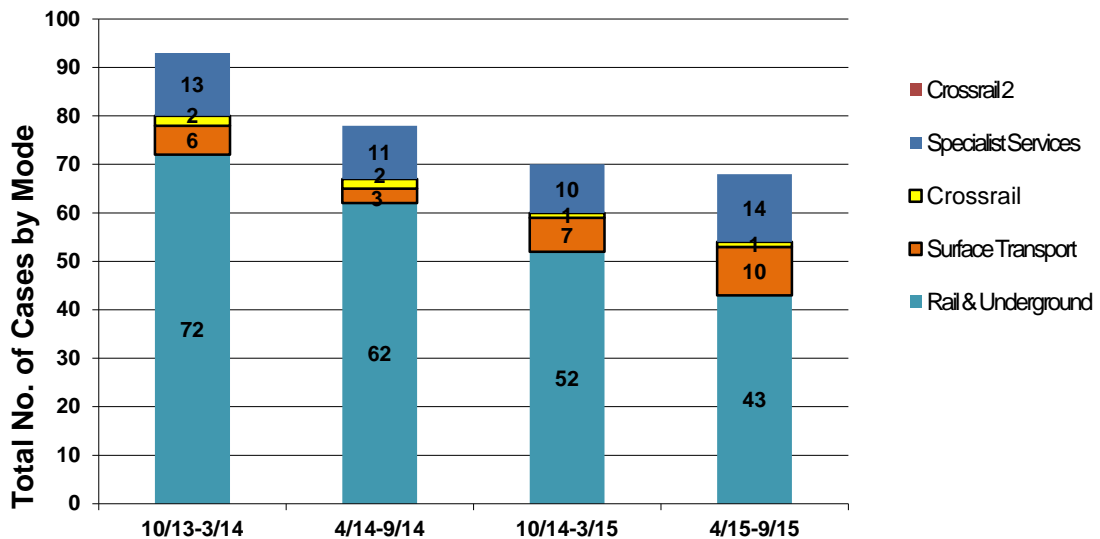


## Personal Injury Claims – Concluded Cases

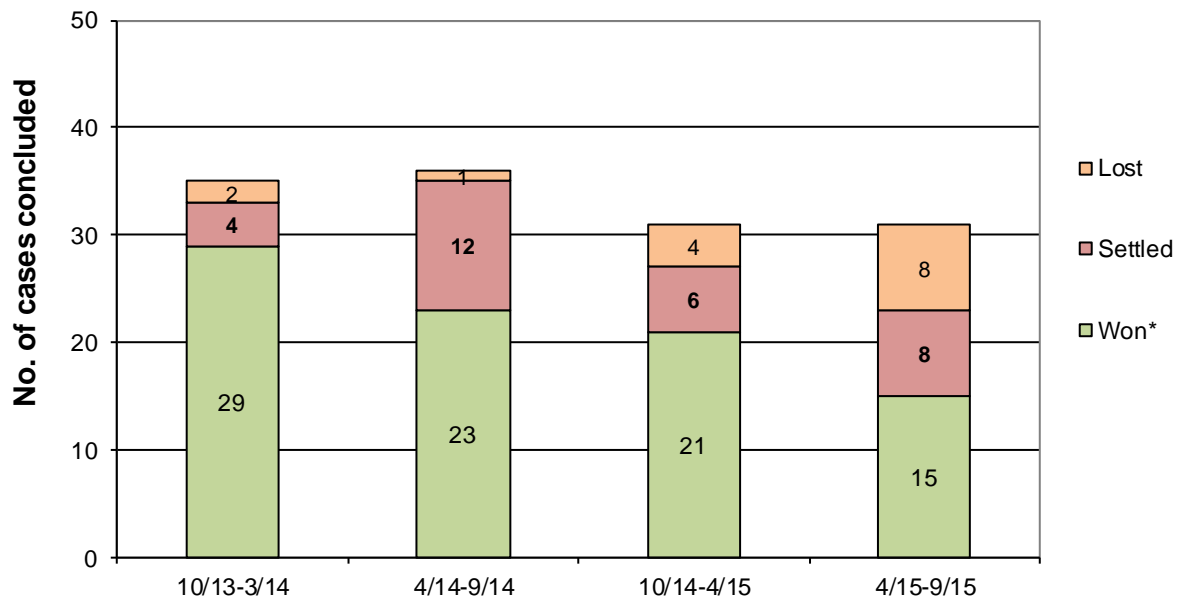


## Employment Tribunal (ET) Proceedings

- 5.83 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. The number of ET claims continues to decrease.
- 5.84 Rail and Underground has been the subject of 43 ET claims during the period of this report. Of these, 19 were for unfair dismissal, three were for sex discrimination, one was for whistle blowing, one was for trade union detriment, eight were for disability discrimination, one for race discrimination, one was for discrimination on the grounds of pregnancy, one was for breach of the Agency Workers Regulations, one was victimisation, one was for failure to allow time off to undertake health and safety rep duties, one was for public interest disclosure, one was for discrimination on grounds of religion and four were unlawful deduction of wages.
- 5.85 Surface Transport has been the subject of ten ET claims during the period. Of these, seven were for unfair dismissal, one was for discrimination on grounds of religion, one was for discrimination on the grounds of race and one was for sex discrimination.
- 5.86 Specialist services have been the subject of 14 ET claims during the period. Of these, four were for unfair dismissal, seven were for disability discrimination, one was for age discrimination, one was for race discrimination, one was for unlawful deductions of wages.
- 5.87 Crossrail reported one outstanding ET claim from the previous period which was for discrimination on the grounds of race. The claim was lost by Crossrail.
- 5.88 Of a total of 68 ET claims, 37 cases are ongoing and 31 were concluded during the period. Of the 31 ET cases concluded during this period, seven were won, four were withdrawn, four were struck out, eight were settled and eight were lost.
- 5.89 There was a decrease of two ET claims during this reporting period from the 70 claims reported in the last reporting period (1 October 2014 – 31 March 2015).  
Total number of Claims



### Employment Tribunal Cases Concluded



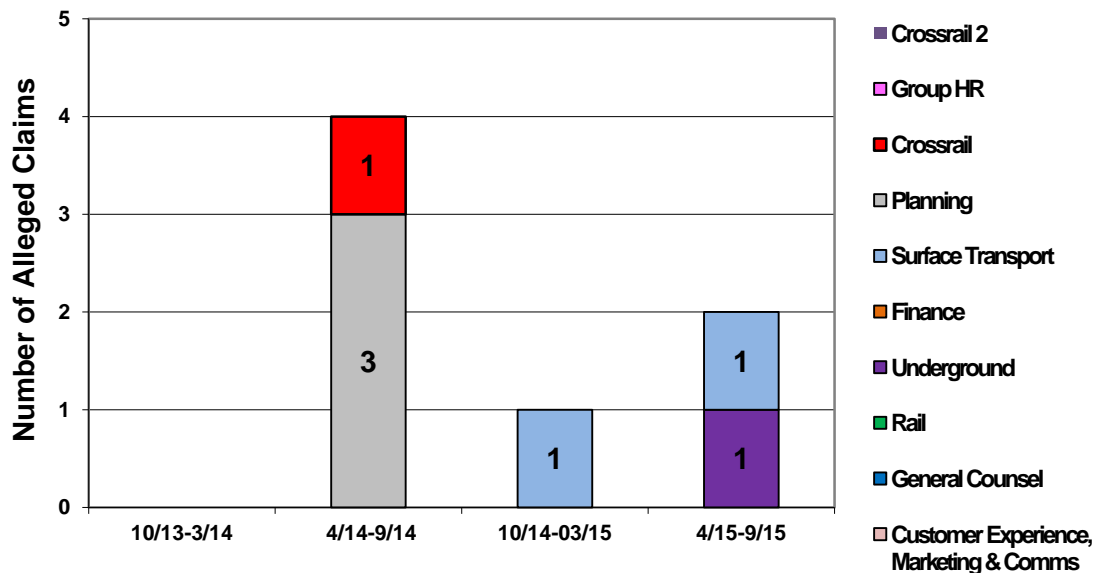
\*Claims won include withdrawn and struck out claims

### Civil Debt in Excess of £5,000

5.90 Surface Transport previously reported a claim brought against TfL by the London Borough of Enfield in March 2014 for the recovery of unpaid invoices relating to monitoring CCTV cameras. Discussions between the parties are still ongoing.

5.91 London Underground reported a claim received from Southwark Council for non-payment of National non-Domestic Rate relating to a property at Unit 4, Baden Place. The invoice was paid on 27 May 2015.

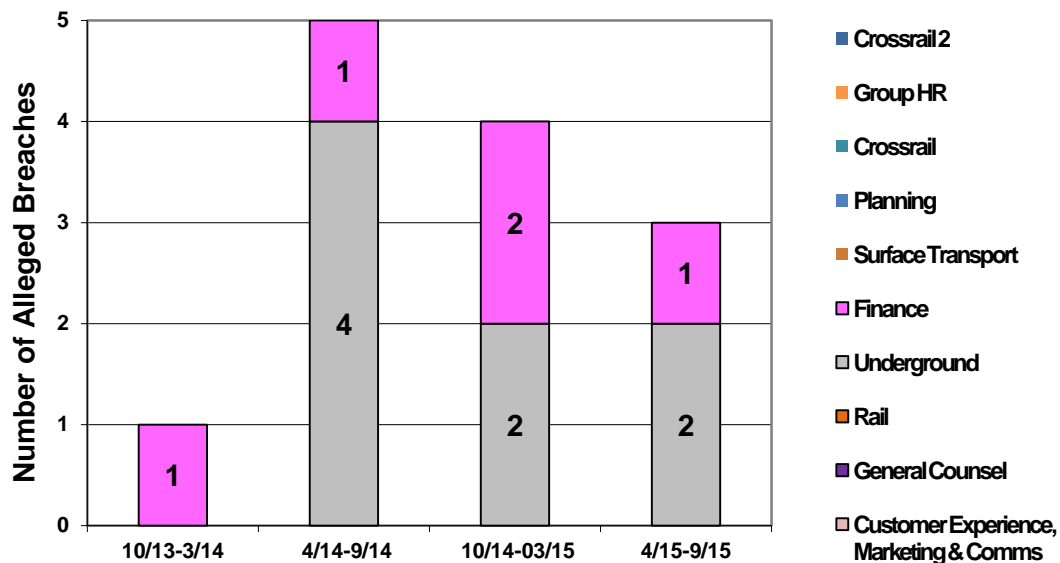
Unpaid Debt



### Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998

- 5.92 London Underground reported one outstanding alleged breach from the last report relating to changes to London Underground’s access arrangement to track working. Responses were made to the complainant and information was provided to the ORR on the 24 July 2015. The ORR has notified London Underground that no formal investigation will be undertaken. London Underground is preparing a further response to the ORR to request that the matter be closed.
- 5.93 London Underground reported one new alleged breach following a complaint from an unsuccessful bidder in a procurement for the overhaul, test and supply of rolling stock components. A review was undertaken resulting in the procurement process being re-run and is almost complete.
- 5.94 Finance reported one alleged breach received in July 2015 relating to bus shelters and bus stops advertising and other services. Responses were sent to the complainant, which resulted in no further action.

## Breaches or Alleged Breaches of EU/UK Procurement Rules and/or the Competition Act 1998



### Other Known Breaches

- 5.95 The Directorates were asked to identify other material breaches of law which had not been addressed elsewhere. Customer Experience, Marketing and Communications reported three fare related complaints, received from the Advertising Standards Authority (ASA), alleging that fare information advertised on posters at stations and the TfL website was misleading. The three complaints were not upheld. TfL have since removed the posters, issued a refund to one complainant and updated the TfL website to include more information on fares.
- 5.96 No other alleged breaches were identified.

### Other Material Compliance Issues

- 5.97 Finance 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. Of the 32 London boroughs, agreement has been reached for land transfers with 29 boroughs. Arbitration proceedings and discussions are still ongoing with the remaining three boroughs.

### Management of Compliance Issues

- 5.98 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.
- 5.99 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.
- 5.100 The legal and compliance framework is the subject of continuous review and improvement. Initiatives to address compliance issues across TfL have included:

- (a) providing advice and direction to all areas of TfL on the handling of personal information, management of information, requests for the disclosure of information and the retention of information, working with business areas to develop and review processes, systems and supplier relationships as necessary;
- (b) continued promotion of e-learning courses on Freedom of Information, Data Protection and records management including mobile versions available for staff without computer access;
- (c) ongoing bespoke training made available to the business and HR on a range of employment issues including employment law updates, compliance with TUPE, reasonable adjustments requirements and effective case management and providing guidance and best practice learned from Employment Tribunal cases;
- (d) training made available to the business on a range of legal issues including Land Transactions, use of TfL Resources, Statutory Powers, NEC Contracts, Contract for Services, Drafting Specifications, Common issues arising in Contracts, Dispute Resolution, Common Legal Terms, New Procurement Regulations, and the Crichel Down Rules;
- (e) a Commercial Peer Review Forum attended by senior managers to consider procurement strategies and contract award recommendations;
- (f) continued use of online resources to access up-to-date information on the EU Procurement Directives and case studies to enhance support and advice provided to the business to comply with procurement law;
- (g) ongoing use of the Supplier Quality Assurance process providing TfL with robust tools for complying with relevant health and safety regulations through early identification and mitigation of health and safety risk in particular at the outset of the procurement process;
- (h) continued use of the pan TfL template for procurement strategies, evaluation strategies and contract award recommendations. This has resulted in more robust templates, greater visibility of possible legal compliance issues within the business at an early stage in the planning process, ensuring concerns are highlighted, scrutinised and agreed as appropriate;
- (i) a rolling programme to review template documents to ensure issues arising on procurement are addressed;
- (j) delivery of bespoke training in connection with the new utilities Contract Regulations in advance of them coming into force;
- (k) improved and updated prequalification questionnaire aligned with the new Public Contract Regulations 2015;
- (l) the implementation of a new Commercial Technical Bulletin for issue to Rail and Underground Commercial teams to support the dissemination of important messages relating to regulatory and legal issues;
- (m) continued support to the TfL Freight and Fleet Programmes team ensuring Work Related Road Risk requirements are incorporated in to TfL contracts with the aim of reducing the risk of road accidents and improving compliance

with environmental, vehicle and road safety regulations;

- (n) continued support to raise awareness of TfL's transparency obligations by issuing communications and reminders to assist TfL in meeting its responsibilities under the Freedom of Information Act;
- (o) implementation of new financial processes to assist with monitoring, tracking and managing expenditure and procurement processes in order to improve compliance with the relevant EU Procurement Directives;
- (p) ongoing reporting and recording of gifts and hospitality;
- (q) the introduction of a dedicated team, CE System Access AQ Team to control access to Customer Experience ticketing systems and ensure compliance with Data Protection and Information Governance training requirements; and
- (r) continued improved procedures to ensure compliance with borrowing documentation, risk management documents, regulations and TfL Treasury Management Strategy.

## **6 Conclusions**

- 6.1 The Legal Compliance Report for the period 1 April 2015 to 30 September 2015 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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