

31 July 2018

Dear Ms Breed

**Freedom of Information Act (FOIA) Request – IR180711019**

Thank you for your request dated 11 July 2018 for an Internal Review of FOI180618007 in which you asked for the following information from the Ministry of Justice (MoJ):

**Please would you provide, broken out by year, details of the following:**

- 1. Number of claims brought in Employment Tribunals (England and Wales) where the Claimant indicated disability, either by filling in Section 12 of the ET1 form or otherwise.**

**Please also say for each claim:**

- 2. Whether there was any offer by HMCTS to implement reasonable adjustments;**
- 3. . Whether any adjustments were actually implemented;**
- 4. How well adjustments removed or reduced disadvantage faced by the Claimant(s).**

The purpose of an Internal Review is to assess how your FOI request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review: I was not involved in the original decision.

The response to your original request confirmed that some of the information requested is held but withheld disclosure of the information citing section 12(1) of the FOIA.

After careful consideration I have concluded that this response was compliant with the requirements of the FOIA.

**Statutory deadline**

The statutory deadline for your request was 18 June 2018 and the response was provided on 11 July 2018. The response was therefore compliant with the requirements of the FOIA.

**Outcome**

Having conducted my review I am satisfied that section 12(1) of the FOIA was engaged correctly. Section 12(1) of the FOIA means public authorities are not obliged to comply with a request for information if it estimates the cost of complying would exceed the appropriate

limit. The appropriate limit for central government is set at £600. This represents the estimated cost of one person spending 3.5 working days determining whether the department holds the information, and locating, retrieving and extracting the information.

The original response explained the electronic court records database is not able to be interrogated to provide the information that falls within the remit of your request. ET1 forms are held within the individual Employment Tribunal case files. In this instance to provide you with the information you are requesting we would have to conduct a manual search of all case files held at all Employment Tribunal hearing centres, to identify if they contained the information you are requesting then extract, record and collate the data. You may find it useful to know in the period April 2017 to March 2018 alone, there were in excess of 80,000 applications received across Employment Tribunals in England and Wales. We estimate it would take around 10 minutes to check each file to extract, note and collate the data, which would exceed the cost limit stated above. I am satisfied the original response provided you with sufficient detail to explain what would be involved in providing the information to you.

Where section 12 applies to one part of a request we refuse all of the request under the cost limit as advised by the Information Commissioner's Office.

Section 16 of the FOIA places an obligation on public authorities to provide advice and assistance where applicable. I am satisfied the original response provided you with details of how you may refine your request by changing the timescales or asking for data only from certain hearing centres.

You may be interested to know in accordance with the Employment Tribunal Record Retention and Disposition Schedules (RRDS) ET files are destroyed one year following judgment and ET Appeal files are destroyed three years following the last action. Further information in relation to the retention of documents can be found at the following link <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

You should be aware refining your request is not a guarantee it could be answered within the cost limit or that other exemptions do not apply. This is because every request is considered on its own merits and in relation to the information in scope, and as such deemed different from any previous request. This means that any refined request you submit may still exceed the cost limit or if confirmed held by the Tribunal may even engage one or more other exemptions provided for under the FOIA. In particular you may wish to consider the exemptions that apply under section 32 of the FOIA which relate to information that is only held as part of a court record.

In conclusion I am satisfied the response you received on 11 July 2018 was correct and compliant with the FOIA.

## **Appeal Rights**

If you are not satisfied with this response you have the right to apply to the Information Commissioner's Office (ICO). The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if she considers that we have handled it incorrectly.

You can contact the ICO at the following address:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

<https://ico.org.uk/Global/contact-us>

Yours sincerely

**Knowledge and Information Liaison Officer  
Midlands Region**