

Ms Kate Breed
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data.access@justice.gsi.gov.uk

21 October 2019

Dear Ms Breed,

Freedom of Information Act (FOIA) Request for an Internal Review – 190926002

Thank you for your request received by the Ministry of Justice (MoJ) on 26 September 2019, in which you asked for an Internal Review of FOI 190816033. FOI 190816033, is the request in which you asked for the following information from the Ministry of Justice (MoJ):

- 1. Any HMCTS' policies and procedures that describe how It caters for disabled people (for example, how it meets the Public Sector Equality Duty)?**
- 2. Alternatively, you could tell me the number of cases where HMCTS made 'reasonable adjustments'. I am interested in adjustments actually made in practice.**
- 3. If available, please include the number of cases where adjustments were refused by HMCTS.**

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 the information requested under question one was available to you but was exempt from disclosure under section 21 of the FOIA, because it is reasonably accessible to you. A link was provided. As you did not specify a time period for questions two and three, you were provided with data covering the last calendar year, 2018.

After careful consideration I have concluded that this response was compliant with the requirements of the FOIA, based on the information available to MoJ / HMCTS at the time.

Statutory deadline

The statutory deadline for your request was 16 September 2019 and the response was provided on 12 September 2019. The response was therefore compliant with the requirements of the FOIA.

Outcome

I have considered that in your request for an Internal Review you say "You (MoJ) asked that I (yourself) "explain what types of ET Hearings I am referring to" which I did; despite this you do not appear to have revisited my original request".

That refers to a previous FOIA (190719005) in which you were asking for information about Ground Rule Hearings ie

Please could you tell me:

- (a) The number of Ground Rules Hearings that were held; and*
- (b) The number of claims that relate (in full or in part) to disability discrimination?*

However, the question included in FOIA 190816033 does not mention Ground Rule Hearings. If you have an FOIA question regarding them you should submit a new FOIA or Internal Review request to MoJ which will be handled accordingly. I have not addressed this matter in this Internal Review.

The question asked in FOIA 198016033 was:

"Perhaps it would be better to start by locating any HMCTS' policies and procedures that describe how It caters for disabled people (for example, how it meets the Public Sector Equality Duty)? I could then be more specific about my request using language and terms that are more likely to be familiar to HMCTS. For instance - taking the above excerpt - HMCTS may have a document that lays out how It will ensure "clarity ... of correspondence"; It may also have some mechanism for "expediting the final hearing and advance planning"?

*Alternatively, you could tell me the number of cases where HMCTS made 'reasonable adjustments'. (I know that many standard letters sent by HMCTS contain a generic paragraph along the lines of "please let [HMCTS] know if you require reasonable adjustments" but I am *not* interested in those letters - I am interested in adjustments actually made in practice.) Please break the numbers down in the same way as when reporting case volumes (so that I can compare with the number of cases where a claim of disability discrimination was brought). If available, please include the number of cases where adjustments were refused by HMCTS."*

In my opinion your original request was correctly interpreted, and those questions shown in Bold, above, were correctly responded to.

However, in your request for an Internal Review you have clarified your Questions, as follows:

I requested specific detail not generic policies that I could (and already) have obtained online. For example, I asked for material that "lays out how [HMCTS] will ensure "clarity ... of correspondence";" but you just redirected me back to generic policy.

Where is the detail - for example - of the process that staff must (presumably) follow for 'registering' into system or systems requests for adjustments. What policy or procedure gives authority to a role or roles to take decisions about whether adjustments are granted or refused? What policy or procedure gives effect to any decision (to grant an adjustment) by

identifying the person or persons responsible for implementing it, and the mechanism by which they may be held to account for not doing so?

Whilst you've given adjustment totals for 2018 you have not mapped these to cases (I said: "Please break the numbers down in the same way as when reporting case volumes (so that I can compare with the number of cases where a claim of disability discrimination was brought)).

Therefore, outside of FOIA and on a discretionary basis I can tell you that HMCTS has internal guidance available for all staff on providing reasonable adjustments for court and tribunal users. This guidance is called "Customer Accessibility and Inclusion, Reasonable Adjustment Guidance." A copy of this is attached. We have redacted references to personal information (such as email addresses). We are not obliged, under section 40(2) of the FOIA, to provide information that is the personal information of another person, if releasing would contravene any of the provisions in the Data Protection Act 1998 (DPA) for example, if disclosure is unfair. The terms of this exemption in the FOIA mean that we do not have to consider whether or not it would be in the public interest for you to have the information. Please see the attached document.

I would add that the HMCTS internal recording system for reasonable adjustments provides an internal audit trail for staff to be able to recognise who has been dealing with a reasonable adjustment. Should a court or tribunal user be unhappy with the way a reasonable adjustment has been dealt with, then the HMCTS complaints policy would apply. A copy of this can be found at:
<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure>.

Examples of data / fields that are recorded against each request for a reasonable adjustment include:

- Any supporting documents relating to the reasonable adjustment request
- The method by which the request was made
- Appropriate representative details
- The location the reasonable adjustment relates to
- The date of the hearing
- A description of the category that the reasonable adjustment would come under eg. assistance with forms, physical access and facilities etc.
- The status of the request eg. granted, refused, awaiting assessment.
- Any disability involved on the part of the requester
- Customer forename, surname, address, email address
- Representative's forename, surname, address, email address and relationship to the customer
- Preferred contact method
- Customer category eg appellant, juror, witness etc.

I am still unclear about what you mean by "*(reported) case volumes*". However, again, outside of FOIA and on a discretionary basis, I can tell you that in each month January 2012 – December 2018 the number of Reasonable Adjustments granted and refused by HMCTS was as below:

	Granted	Refused
201201	544	37
201202	560	43
201203	636	38
201204	552	33
201205	587	36
201206	422	30
201207	418	26
201208	415	16
201209	371	31
201210	388	20
201211	437	28
201212	208	15
201301	436	29
201302	337	27
201303	369	28
201304	266	8
201305	267	10
201306	289	6
201307	342	5
201308	259	4
201309	378	5
201310	335	10
201311	359	4
201312	243	5
201401	334	5
201402	232	10
201403	273	11
201404	283	5
201405	255	6
201406	246	4
201407	294	2
201408	210	3
201409	229	0
201410	263	5
201411	266	2
201412	281	5
201501	266	3
201502	244	3
201503	273	5
201504	248	3
201505	245	5
201506	315	7
201507	284	5

201508	306	3
201509	320	2
201510	285	3
201511	249	3
201512	235	3
201601	252	3
201602	400	4
201603	403	5
201604	397	10
201605	515	7
201606	461	13
201607	412	5
201608	508	12
201609	429	6
201610	615	8
201611	469	7
201612	444	9
201701	564	26
201702	542	22
201703	690	20
201704	471	18
201705	566	22
201706	510	15
201707	514	12
201708	514	12
201709	460	12
201710	512	17
201711	478	19
201712	457	8
201801	756	11
201802	711	12
201803	547	13
201804	663	21
201805	558	14
201806	514	16
201807	614	14
201808	502	12
201809	427	11
201810	449	10
201811	451	9
201812	314	6

Notes regarding the above data:

- Reasonable adjustment data does not map against specific case or jurisdictional data as the reasonable adjustment recording system is separate to HMCTS case management and management information systems and includes information relating to multiple jurisdictions and types of parties to cases.
- Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that the data have been extracted from large administrative data systems. Consequently, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when data are used.
- Data are taken from a live management information system and can change over time.
- Data are Management Information and are not subject to the same level of checks as official statistics
- The data provided are the most recent available and for that reason might differ slightly from any previously published information.
- Data has not been cross referenced with case files.
- If a request is made for information and the total figure amounts to five people or fewer, the MoJ must consider whether this could lead to the identification of individuals and whether disclosure of this information would be in breach of our statutory obligations under the General Data Protection Regulation and/or the Data Protection Act 2018. In this instance we do not believe that the release of this information would risk identification of the individuals concerned.

In conclusion, I believe that within the framework of FOIA 190816033, your questions were answered and the response sent to you on 12 September 2019 was correct.

However, arising out of comments and observations, included in your request for an Internal Review I am now providing you with further information outside of FOIA, and on a discretionary basis, as noted above.

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

**Miss A Mondesir, Performance Reporting Officer, Analysis and Performance Division,
Her Majesty's Courts and Tribunals Service (HMCTS).**