

23rd July 2020

Dear Mr Agboh-Davison

Freedom of Information Act (FOIA) Outcome of Internal Review –: 200625027

Thank you for your Internal Review request dated 25th June 2020 regarding FOI request 200528012 in which you asked for the following information from the Ministry of Justice (MoJ):

1. How many times have enforcement agents acting on the instructions of HMCTS to collect criminal fines used force to make initial entry to domestic premises in the following periods:

1 April 2014 - 31 March 2015
1 April 2015 - 31 March 2016
1 April 2016 - 31 March 2017
1 April 2017 - 31 March 2018
1 April 2018 - 31 March 2019
1 April 2019 - 31 March 2020

This request relates to instances of forced initial entry only, not to the use of forced entry to remove goods already taken into control.

2. Does the process in the HMCTS Forced Entry Powers Procedure (July 2014) still apply? If this has been replaced with more recent guidance, please could you supply a copy.

3. How many of the instances of forced initial entry in the period above were carried out at the enforcement agent's own discretion without prior approval of a Nominated Officer (para 3.5 in the 2014 Procedure)?"

This request seeks an update of a previous request FOI 102586. The response to this, and copy of the July 2014 guidance is visible at:
https://www.whatdotheyknow.com/request/use_of_forced_initial_entry_by_e#incoming-766743".

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.

Your original request confirmed the information requested is held and Her Majesty's Courts and Tribunal Service (HMCTS) uses Approved Enforcement Agencies (AEA's) as part of its enforcement approach for the execution of criminal enforcement warrants. The following Companies are contracted by HMCTS for this purpose who cover England and Wales:

- Marston Group
- Excel Civil Enforcement Limited

As the above-mentioned organisations are separate from Her Majesty's Courts and Tribunal Service we are not the data controllers or owners of their data and this query should be redirected to these Companies

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty is to only provide the recorded information held.

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

Statutory deadline

The statutory deadline for your request was 23rd July 2020 and the response was provided on 23rd July 2020 the response is therefore compliant with the requirements of the FOIA.

Outcome

The reason the response is partially compliant is because as the result of my investigation, I can confirm the MoJ does not hold the information you have requested for questions 1 and 3. So, for the reply to state none of the requested information at all is held by MoJ was incorrect as we do hold the document for question 2 which is enclosed.

In conclusion

I believe the original response was partially incorrect, for which I apologise. *In relation to Question 2 we have attached the Guidance, please see the PDF attachment HMCTS Forced Entry Powers Procedure 2019 /2020.*

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

KILO Team
National Compliance Enforcement Service