



Disclosure Team
Ministry of Justice
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18 July 2019

Dear Mr J McGoldrick

Freedom of Information Act (FOIA) Request – 190621006

Thank you for your request dated 21 June 2019 in which you asked for the following information from the Ministry of Justice (MoJ):

You say on the timing of the reply to the original request that "The response was therefore compliant with the requirements of the FOIA." The FOIA section 10 (1) says that public authorities should reply "promptly and in any event not later than the twentieth working day following the date of receipt". My point on 30th May was that you waited three weeks to tell us what you could have said almost immediately.

You say that our request goes over the cost limit because you would need to "interrogate" "approximately" 170,000 cases at 2 minutes per case. Your responses are not absolutely clear, but it appears that you are saying that you keep no counts or statistics other than the total number of "registered" cases. Will you please confirm that is the only figure that you keep. If in fact you do keep any figures at all on TE3s, TE7s and TE9s for the Mersey Gateway then we hereby request those figures.

In any case your answer is puzzling. I had assumed that all of the "cases" would be on a computerised database, and that TE7s and TE9s received would be entered on to the database and further entries made when the witness statements and out of time applications were either accepted or rejected. You however say that this is all "processed manually" rather than electronically. Given what you say it must be difficult for the TEC to somehow produce the printed letters that you send out in reply to the statements and applications. And I have seen emails that the TEC have sent out where someone has submitted, by email, duplicate TE7s and TE9s (i.e. for the same PCN). The email replies from the TEC are about an hour after the emails to you were submitted. This is a commendably fast response but even more remarkable if the TE7s and TE9s are not in a database.

Still on the assumption that the TE7s and TE9s are not in a database but have been "manually processed". It is not clear why you would go through the 170,000 TE3 case records, rather than through the presumably very much smaller number of TE7 and TE9 records. Could you explain that?

You say that "I can confirm that the TEC is impartial when an out of time is processed it is then sent to the Local Authority who have 19 days to respond to the TEC confirming if they accept or refuse the respondents application. If they refuse the out of time then this is passed onto a court officer for an impartial decision. The Court Officer is not required to give a reason for the refusal and record is not kept on the file."

As the TEC is not really dealing with a 'local authority', how can you say that the out of time applications are sent to one. Can you tell us exactly who and where the applications are sent to?

And are the TEC really saying that when the court officer makes this judicial decision, no record is made of why they have rejected the application? The TEC may be aware that it has been noticed by us that the acceptance or rejection of the TE7 out of time applications seems to be random. Applications have been rejected while identical ones (apart from the PCN number) submitted at the same time by the same person have been accepted. The decision making by the court officer seems to be done on the toss of a coin. Though of course, given the TEC refusal to supply the requested information, we have no way of knowing whether the court officer is in practice doing anything more than rubber stamping whatever the Merseyflow response is.

In our view there has been an unsuccessful attempt to mask who your customer is for the Mersey Gateway recovery orders and warrants of execution. Your TE3 recovery orders until recently said that the 'applicant' was "Mersey Gateway Crossing". We have noticed that within the last week or so, the forms are now showing the applicant is "Halton Borough Council". Perhaps the TEC were not aware of that change as I understand that it is a company employed by Merseyflow who send the forms out? I also notice that in your latest letter you say that "since joining the Traffic Enforcement Centre (TEC) Mersey Halton have registered (approximately) 170,000 cases". There seems to be some confusion in the TEC as to who you have been working for.

We are considering whether to complain to the ICO about your response, but before doing so we will wait to see what response, if any, the TEC makes to the queries and fresh requests in this email.

Your request has been handled under the FOIA.

I can confirm the MoJ holds some of the information you have requested. However, to provide as the request currently stands would exceed the cost limit set out in the FOIA.

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.

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.

We believe that the cost of interrogating the (approximately) 170,000 cases which have been registered by Mersey Halton to date to identify which have had a TE9/TE7 filed and what the result was, would exceed the appropriate limit. Consequently, we are not obliged to comply with your request.

I understand you feel there was an unnecessary delay in our response to your Freedom of Information Request 190509013. The statutory deadline for your request was 7 June 2019 and the response was provided on 29 May 2019. The response was therefore compliant with the requirements of the FOIA.

I can confirm that the only statistics that the database records are the number of registered cases.

You are correct in assuming the cases are entered onto the electronic database. Following receipt of a valid TE9/7, an event code is entered onto the database and as you say, a further code is added when these are accepted/rejected. Therefore the processing is manual and a code is entered onto the database but unfortunately the database does not collate the statistics for these.

Out of the approximately 170,000 cases registered it is impossible to tell which have had a TE9/7 and which of those have been accepted/rejected without checking each case individually on the database.

You state that the TEC is not really dealing with the local authority, it may help if I explain the Local Authority is using the TEC as a registration point to issue penalty charge notices, so TEC has to deal with them. As such when an out of time form is filed and it requires a decision it needs to be sent to the issuing local authority, the details are sent via email on the day the form is processed. This is so the local authority are aware and should bailiff action require putting on hold they can do so. We then copy the paper copies of the applications and keep the originals on file at TEC and send copies to the local authority for a decision.

When the court officer creates an order accepting or rejecting the out of time application, they add an event code to the database stating the outcome only – not the reason for their decision. It is important to remember that a local authority may not actually respond to the out of time application (or may respond outside of the time limit) which would result in a revoking order – which is an identical outcome to a court officer granting the application.

You may wish to contact the local authority regarding the information contained within the TE3 as that is produced by them.

Although we cannot answer your request at the moment, we may be able to answer a refined request within the cost limit. You may wish to consider, for example, reducing the volume of your request, and or specifying a narrow period of time. Please be aware that we cannot guarantee at this stage that a refined request will fall within the FOIA cost limit, or that other exemptions will not apply.

For guidance on how to structure successful requests please refer to the ICO website on the following link: http://ico.org.uk/for_the_public/official_information

http://www.legislation.gov.uk/uksi/2004/3244/pdfs/ukxi_20043244_en.pdf

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure Team, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

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Northampton Business Centre