

28 August 2019

Dear John McGoldrick,

**Freedom of Information Act (FOIA) Outcome of Internal Review – 190802016**

Thank you for your Internal Review request dated 2 August 2019 regarding FOI request 190621006 in which you asked for the following information from the Ministry of Justice (MoJ):

*I am a bit confused as to whom I am addressing with our messages. The information request that [REDACTED] was replying to on the 18th July seems to be the one that we sent on 20th June (not the 21st) to 'Disclosure Team at Ministry of Justice'. The reply of 18th July is headed as coming from the Disclosure Team at Petty France, London but is signed by [REDACTED] at Northampton Business Centre. It is not clear whether we are dealing with the MoJ Disclosure Team or the County Court Business Centre at Northampton.*

*Our message of 20th June, was partly a response to the refusal (on 18th June) to supply the information that we requested from the TEC on 8th May and were told, by [REDACTED], to redirect the request to the MoJ Disclosure Team, which we did on the 9th May. It was also partly a fresh request.*

*The parts which were not in the original request are (I have added numbering) -*

*a) 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.*

*b) .. 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?*

*c) 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?*

*d) 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?*

**e) 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?**

**Your reply of the 18th is in effect a refusal to supply any of the requested information, though it is a bit confused as you do give some answers. We hereby request that this refusal be reviewed and that the information is provided. Our detailed comments on this are-**

**1. The reply of 18th July says- "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."**

**You also say "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."**

**It does not seem to us that what we requested, as set out at (a) to (e) above, could possibly exceed the cost limit. You give no indication of what it is that would exceed the cost limit but say "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."**

**There is nothing in (a) to (e) which would require you to interrogate (manually or otherwise) your database for what was registered by 'Mersey Halton'. It appears that the reason that was given for refusing our 8th /9th May request has been repeated without any consideration that it is not relevant to the new request.**

**I also notice that you still refer to 'Mersey Halton', though it should have been apparent from our message of 20th June that there is no such entity. This seems to be part of the TEC / MoJ's continuing effort to hide that the TEC has been providing its facilities to Merseyflow.**

**2. The reply says "I can confirm that the only statistics that the database records are the number of registered cases." This seems to be an answer to (a) above. If so it is not a full answer as it only refers to "statistics that the database record", whereas we asked for "any figures at all on TE3s, TE7s and TE9s for the Mersey Gateway" that you may hold.**

**3. The reply says "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." As you well know ANY database query will have to process all the records that may come within its parameters, but the records are not enquired on individually and even a database query on hundreds of thousands of records can be done automatically and rapidly.**

**4. The reply has a paragraph which starts "You state that the TEC is not really dealing with the local authority..." The rest of the paragraph asserts that you are dealing with "the Local Authority'. We notice that the reply is careful not to name 'the Local Authority. In any case the TEC and MoJ will be well aware, from our other correspondence with you, that with the Mersey Gateway tolls enforcement, the TEC is not dealing with Halton Borough Council or any other local authority.**

**Our request at (c) "Can you tell us exactly who and where the applications are sent to?" has been ignored. Perhaps this is because the TEC / MoJ are faced with the**

*dilemma of either revealing that the out of time applications are not sent to the local authority, or giving us a local authority contact who will not be able to say that it is them who receive the applications.*

*5. The reply says "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....". This seems to be an answer to (d) above. If so it is not a full answer as it only refers to what has been put on the database. It does not make it clear whether any other record is kept of the reason for the decision or whether the reason is only in the head of the officer who made the decision. (Though I accept that if the reason is not recorded on a database, then it would probably be impractical to produce any summary of the reasons.)*

*6. The reply says- "You may wish to contact the local authority regarding the information contained within the TE3 as that is produced by them." This seems to be an answer to (e) above. If so it is not clear whether the TEC does not really know what is being sent out in their name. It should also be apparent to both the TEC and the MoJ that there is no point in contacting the, again unnamed, "local authority", as they have nothing to do with this - as should be apparent from the messages that I sent last night (at 21.33) and earlier today (12.09).*

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 information requested was held but that to provide it as the request currently stood would exceed the cost limit set out in 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 19 July 2019 and the response was provided on 18 July 2019. The response was therefore compliant with the requirements of the FOIA.

### **Outcome**

In your request for an internal review you state that what you have requested could not exceed the cost limit. Out of the 170,000 registrations there is no way to tell which ones have had an out of time application filed, other than to interrogate each one. This would take approximately 2 minutes per case. This totals approximately 5666 hours, which would take us over the cost limit as set out in the FOIA.

I can confirm that we do not hold any figures at all for the amount of out of time applications which have been processed and that whilst the TEC database allows entries to be made to an individual registration and can produce a report of the amount of registrations per month per local authority, it cannot query the amount of out of time applications that were processed. I can also confirm that the reason for the court officers decision is not recorded on the database.

The applicant is Halton Borough Council and there is a private public partnership between them and the delegated authority Mersey Gateway. This was approved under the Department For Transport's regulations. I can confirm that the TE3 is produced by the 'local authority' or Halton Borough Council / Mersey Gateway.

In conclusion I am satisfied the response you received on 18 July 2019 was correct.

### **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**  
Northampton Business Centre