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XXXX

data.access@justice.gsi.gov.uk

March 2019

Dear XXXX

Freedom of Information Act (FOIA) Request – 190227009

You asked for the following information from the Ministry of Justice (MoJ):

- 1. The average waiting time between the filing of a claim to an employment tribunal and a hearing between 1 November 2018 and 20 February 2019**
- 2. The number and hearing centre location set for hearing dates beyond 2020 between 1 November 2018 and 20 February 2019**
- 3. The amount of remuneration in employment tribunal cases still outstanding at 20 February 2019**

Your request has been handled under the FOIA.

It has been passed to me because I have responsibility for answering requests relating to data in Her Majesty's Courts and Tribunals Service (HMCTS). HMCTS is an executive agency of the MoJ and is responsible for the administration of the magistrates' courts, the Crown Court, the County Court, the Family Court, the High Court, Court of Appeal and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland.

I can confirm that the MoJ holds some of the information that you have requested and I have provided it below. For clarity, I have numbered your questions.

Also, my response only relates to data for the period 1 November 2018 – 31 December 2018. Employment Tribunal (ET) data for the period 1 January 2019 onwards is exempt from disclosure under section 44 of the FOIA, because of prohibitions on disclosure by any other enactment. In this case, the information you are seeking is prohibited by the Statistics and Registration Services (SRS) Act 2007 and the Pre-release Access to Official Statistics Order 2008. It is a subset of published data which is intended for publication as part of the MoJ's Criminal Justice System Statistics on 13 June 2019. As such we are required to consider your request in a manner compliant with the Pre-release Access to Official Statistics Order 2008 further to sections 11 and 13 of the (SRS Act 2007).

The MoJ is obliged under section 13 of the SRS Act to continue to comply with the Code of Practice for Official Statistics (the Code) for statistics designated as National Statistics. Section 11(3) of the SRS Act regards the Pre-Release Access to Official Statistics Order as being included in the Code. Protocol 2 of the Code reflects the requirements of the Pre-Release Access to Statistics Order. Specifically, it requires producers of official statistics to

ensure that no indication of the substance of a statistical report is made public, or given to the media or any other party not recorded as eligible for access prior to publication. I can confirm that the MoJ will publish information on Employment Tribunals as part of National Statistics in June 2019. Therefore, to now disclose as part of your FOI request, will violate the provisions of section 13 of the SRS Act and the Pre-Release Access Order to Official Statistics 2008 and as such engages the exemption under section 44(1)(a) of the FOIA.

Please be aware that Section 44 is an absolute exemption and does not require a public interest test.

Regarding your questions for the period 1 November 2018 – 31 December 2018:

Question one

The average waiting time between the receipt/filing of a claim to an Employment Tribunal and a hearing was 35 weeks.

Notes regarding the above data.

- They are in line with the latest Tribunals published statistics.
- They include single claims and the lead claim in a multiple to be listed for hearing.
- Hearings include Preliminary hearings with an outcome of succeed at hearing, unsuccessful at hearing or dismissed at preliminary hearing; full hearings; case management reviews.
- Although care is taken when processing and analysing the data, the details are subject to inaccuracies inherent in any large-scale recording system, and is the best data that is available at the time of publication.

Questions two and three.

The MoJ does not hold the information in the scope of your request. This is because there is no legal or business requirement for MoJ to do so.

Regarding Question two, HMCTS/MoJ do not currently have a report that can provide future hearing dates of claims. In order to provide this information we would have to specify a new requirement and commission a third party to write the report, which would have to be tested and QAd.

Regarding Question three, HMCTS/MoJ are not responsible for enforcing ET judgements and are not aware of outstanding amounts. You may wish to contact the Department for Business, Energy & Industrial Strategy as they may hold some of the information you requested. Their contact details are:

<https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>

or

<https://www.gov.uk/government/publications/employment-tribunal-penalty-enforcement>

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.

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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