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XXXX

data.access@justice.gsi.gov.uk

August 2018

Dear XXXX,

Freedom of Information Act (FOIA) Requests – 180720005

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

- 1. The number of employment tribunal hearings which have been cancelled or postponed at Reading Employment Tribunal with less than 48 hours notice from the time they were listed to start for the following time periods; 1 April 2016 - 31 March 2017, 1 April 2017 - 31 March 2018, 1 April 2018 - 30 June 2018**
- 2. The number of employment tribunal hearings which have been cancelled or postponed at Reading Employment Tribunal on the Friday before the Monday they were listed to start for the following time periods; 1 April 2016 - 31 March 2017, 1 April 2017 - 31 March 2018, 1 April 2018 - 30 June 2018**
- 3. The number of employment tribunal hearings which have been cancelled or postponed at all employment tribunal hearing venues with less than 48 hours notice from the time they were listed to start for the following time periods; 1 April 2016 - 31 March 2017, 1 April 2017 - 31 March 2018, 1 April 2018 - 30 June 2018**
- 4. The number of employment tribunal hearings which have been cancelled or postponed at all employment tribunal hearing venues on the Friday before the Monday they were listed to start for the following time periods; 1 April 2016 - 31 March 2017, 1 April 2017 - 31 March 2018, 1 April 2018 - 30 June 2018**

Your request has been handled under the FOIA.

Regarding Questions one and two I can tell you that the MoJ does not hold the information in the scope of your request. Reading is a hearing venue only which is administered by Watford Employment Tribunal. Consequently, we are unable to provide any postponement data for Reading Employment Tribunal as it does not exist.

Regarding Question four, Her Majesty's Courts and Tribunals Service (HMCTS) Employment Tribunal (ET) management information systems do not hold the data requested. In order to answer your question, HMCTS would have to agree a specification with and commission a third party outside of the department to create the data requested. 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, and therefore MoJ does not hold the data to answer questions one, two and four because there is no legal or business reason to do so.

Regarding question three, we do have a report which holds information relating to the number of days notice given for an ET cancellation or postponement and that has been amended to bring back those cases subject to cancellation with less than 48 hours' notice. Please note that this report is based on calendar days and will include weekends, bank holidays and non-working days within the 48 hours.

ET records are only held for a period of twelve months after the case has been completed, or longer if there is an appeal. I can tell you for the period 1 August 2017 to 31 March 2018 there were 3365 postponements within 48 hours of the hearing of which 596 were through Watford Employment Tribunal.

NOTES regarding the above.

- 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 is 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.
- Data are based on calendar days and will include weekends, bank holidays and non-working days within the 48 hours.

ET cases that are postponed on the day of the hearing are NOT included in the data provided. These are effectively adjournments that might occur for many reasons and are therefore excluded to avoid misrepresenting any results.

Information from 1 April 2018 onwards has not yet been published and 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.

The information you have requested is a subset of routinely published data which is intended for publication on 13 September 2018. 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 does publish information on ET cases, for 2018, as part of National Statistics. 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 also be aware that Section 44 is an absolute exemption and does not require a public interest test.

Yours sincerely,

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