JUST BEAT IT!

How Just Eat Robo-fires its Workers
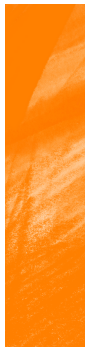
WORKER
INFO
EXCHANGE

Summary

n this review we spotlight cases of automated robo-firings at Just Eat. We have noticed a marked growth in worker reports of such dismissals made to the App Drivers & Couriers Union (ADCU). In these and many other cases, workers are increasingly turning to trade unions to collectively challenge the asymmetrical power of platform employers who act with impunity to violate even the most basic employment and data protection rights of their workers.

Part of the language of employment misclassification is to refer to such dismissals instead as 'deactivations'. A significant subset of these dismissals involve allegations of fraudulent behaviour in relation to delayed order collections at restaurants. We find dismissals under such circumstances especially concerning due to the use of flawed automated decision-making in management mechanisms.

In the following sections we contextualise these cases by exploring some of the other types of automated decision-making we have observed on the platform such as dismissals due to alleged use of shift grabbing software and performance related dismissals resulting from missing delivery targets.

All of these dismissals originate from opaque black box technologies which detect patterns in workers' personal data, and consistently fail to reflect the day to day reality of working in this precarious industry. We examine some of these cases to provide an up-to-date snapshot of the poor working conditions for Just Eat couriers.

A common trend across delivery platforms is to misuse substitution clauses in work contracts to allow workers the ability to further subcontract their work. However, the real goal is to circumvent employer obligations by promoting the narrative that the workers are independent contractors when in reality they are under close management control. The courts have historically viewed substitution as a key indicator of self-employment when determining workers' status.

The tragic cost of the substitution manoeuvre has been the emergence of modern slavery risk and the proliferation of a black market for the sale and rental of courier accounts. Sadly it is workers from already marginalised communities who are placed in greatest danger.

While platform companies may deem themselves at the cutting edge of innovation, we find that poor technology and business process design at Just Eat has led to unnecessary complications for workers on the job and to incorrect fraud detection analysis with profound consequences.

Through this research we aim to document the ways in which this workforce is continually exploited under abysmal working conditions, with chronic low pay and algorithmic control systems operated at scale by app technology.

ILLUSTRATIONS
AND DESIGN BY

Céiune Acheampong

Introduction

Food delivery work is **one of the least regulated areas of the gig economy**, and this opens workers up to unique forms of exploitation.

From an employment perspective, the majority of food delivery couriers are classified as independent contractors and are thereby denied any employment rights including protection from unfair dismissal. Workers and their unions have challenged for employment rights claiming that workers have been misclassified. Just Eat has been one of the few platforms to employ some couriers but now the company is U-turning on respecting the employee status it had committed to for food couriers in France, pointing to the lack of cooperation by its competitors as the reason.

Jitse Groen, founder and CEO of Just Eat, had recently called for EU level legislation that protects workers' rights in a bid to get Just Eat's rivals to abide by the same rules, adding that, "if the platform determines the level or range of remuneration, closely supervises performance or verifies the quality of work, the person performing the work should not qualify as self-employed." However, despite these progressive comments, Just Eat has just announced a cynical fire and rehire programme, opting to replace workers properly recognised as employees and/or forcing them back into independent contractor status.

In the Just Eat cases we examine below, couriers are expected to update their status on the app five times after accepting an order: to confirm when they have arrived at the restaurant, when the food is collected, when they're ready to deliver, when they have arrived at the delivery address, and when the delivery is complete. Any irregularities in the recording of these actions, whether the fault of couriers or not, can lead to immediate dismissal.

Because independent contractors are denied the normal protections from unfair dismissal in employment law, the couriers must resort to data protection law to challenge the opaque and unfair automated decision-making that has led to their dismissals. Regardless of employment law, the UK GDPR is important for the protection of workers in its own right as a means for holding digital labour platforms to account.

Specifically, the workers relied upon Articles 13, 15, 20 and 22 of the UK GDPR, which gives them the right to access personal data, the right to data portability, as well as the right to be informed about automated decision-making and the logic of processing. These offer some remedy for the adverse effects of automated decision-making and profiling, through the right to obtain human intervention and contest the decision.

Compliance with these rights would require Just Eat to give workers an opportunity to present their account of events, and to provide workers with an explanation of how their personal data has been processed to arrive at the conclusion that they have behaved against company guidelines.

As we explore through this report, none of the allegations brought forward by Just Eat were adequately substantiated. Just Eat avoided sharing meaningful explanations by appealing to trade secrecy arguments. However, as our recent victory in the Amsterdam Court of Appeal demonstrates, this is not an acceptable defence for denying the right to an explanation for a robo-firing given the disproportionate impact on the worker.

Nor were any of the workers able to discuss their cases with Just Eat management. Their efforts to engage with Just Eat were stonewalled. For these reasons, we believe their data protection rights to have been breached.

Bogus fraudulent activity dismissals

We have noticed that there are multiple unexplained instances associated with your courier account where you have updated your status incorrectly in a way that directly or indirectly has led to financial gain from restaurant hold payments. We consider this to be a serious breach of your courier agreement and your account's network access has been permanently revoked. Going forward, you cannot use this account to provide your delivery services on the network, nor can you create a new courier account.

We reserve the right to permanently revoke access to any courier account that subcontracts to you.

All the best,

Just Eat

n the recent dismissals we investigated, couriers were initially sent a generic message notifying them of their contract terminations due to "unexplained instances in their accounts" where they had incorrectly updated their statuses, leading to financial gain from restaurant hold payments, in other words, waiting fees paid out for delays at restaurants. When the couriers pushed for further explanation, Just Eat stated:

"These fraudulent activities are a serious breach of your courier agreement which we have to monitor and take actions against to protect our legitimate business interests. Seeing that you continued these violations after our email and the company-wide announcement dated 24 September 2021, we decided to revoke your account's network access permanently."

The company wide announcement referenced by Just Eat was a brief set of tips on "delivering like a pro." The message explained that couriers must only mark themselves "Parked at Restaurant" if they are actually parked and waiting to collect an order, and to continue to wait or use the chat function to have the order reassigned in the event of any delays.

Indeed, when we inquired about the reason for the dismissals, Just Eat confirmed that the couriers were marking themselves 'parked at restaurant' to indicate they were waiting, but then leaving the restaurant without updating their delivery status as 'order collected.'

Just Eat then offered the following explanation to couriers: "Our investigation team members manually observed and confirmed that during these deliveries, you left the restaurants for an extended period of time after marking yourself as "Parked at Restaurant" to indicate you are waiting at the restaurant to pick up the order. Since you left these restaurants without updating your delivery status as order collected you received undeserved financial gains that are for compensating couriers who are held in their deliveries due to late functioning restaurants."

In the termination notices, Just Eat did not disclose which specific collections were deemed to be in breach of the courier agreement. The couriers were only able to obtain this information after appealing to us to make subject access requests on their behalf, as any attempts they made to contact the company were ignored. Couriers who challenged the termination decision were told they would be contacted by Just Eat, but they did not receive any further communication. Couriers were not given a phone number to call, while the only email address they could use for communication returned automated responses. We analysed eleven individual cases of this kind, each involving multiple deliveries. The map on the next page shows the locations of these cases.

Delivering orders like a pro!

Delivery

To help maintain customer satisfaction while delivering on the Just Eat Network, we've put together some tips to deliver like a pro:

1. If you accept an offer, but realise you cannot complete the delivery, use the chat function to get the order unmatched – don't just mark it delivered
2. Remember to only mark "Parked at Restaurant" if you are parked at the restaurant and still waiting to pick up the order.
3. If there is a delay at the restaurant you must either:
    1. Wait at the restaurant for the order
    2. Chat in to have the order reassigned

Please be aware that marking an order as delivered without attempting delivery or updating your status incorrectly in a way that directly or indirectly leads to financial gain is a breach of your courier agreement and can impact your network access.

If you have questions while delivering, please use the chat function located in the upper right corner of your screen.

Image
Locations of courier dismissals reviewed by
Worker Info Exchange

Data limitations

To investigate Just Eat's claims, we demanded details of which specific collections had been flagged for incorrect status updates, what amount of allegedly "undeserved" financial gain was made from each of them and what the precise movements of the couriers were as they waited to collect their orders. We also asked for an explanation of how it was decided that these specific restaurant hold payments were fraudulent, since Just Eat does not regard all hold payments to be invalid.

The couriers wanted to know how it was decided that *they* were delaying the collection of orders. Just Eat responded to the requests with some basic information about which orders had been delayed during collection, and how much hold payment had been paid out for each of them.

Image

A screenshot of the email attached to the data subject access request, detailing the specific trips Just Eat alleged were in receipt of 'financial gain.'

Regarding your information request in connection with your removal from the platform, we reviewed the reasons for your removal and are able to confirm that you updated your delivery status incorrectly during your deliveries on 2nd October 2021 (detailed below) which led to your illegitimate financial gain from restaurant hold payments.

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1421804514	16:41	02/10/2021	McDonald's® - Corby (The Peel Centre)	The Peel Centre, Corby NN17 5DT, United Kingdom	£1.4
1421762518	16:14	02/10/2021	McDonald's® - Corby (The Peel Centre)	The Peel Centre, Corby NN17 5DT, United Kingdom	£1.2

The information above was supported by a total of four rows of data (two for delivery, two for collection) for each flagged order, with 24 columns providing information on when the order was placed, when it was accepted by the courier, when the courier began travelling to the restaurant, when they arrived and when they completed the collection or delivery, with some sparse GPS information supplementing these actions.

Image
The four rows of data provided by Just Eat as evidence of the breach of terms. Personal details of the courier and the delivery GPS coordinates have been redacted in order not to expose customer's personal data.

email	order number	job type	begin parking time	entered time	accepted time	accepted request time	in transit time	in transit gps reading time	in transit latitude	in transit longitude	in transit speed	in transit accuracy
	1421762518	DELIVER	2021-10-02 15:40:17 UTC	2021-10-02 15:41:17 UTC	2021-10-02 15:15:01 UTC	2021-10-02 15:15:01.378 UTC	2021-10-02 15:33:33 UTC	2021-10-02 15:33:32 UTC	52.4948133	-0.6804173	3.93E-14	
	1421762518	COLLECT	2021-10-02 15:15:59 UTC	2021-10-02 15:19:06 UTC	2021-10-02 15:15:01 UTC	2021-10-02 15:15:01.378 UTC	2021-10-02 15:15:04 UTC	2021-10-02 15:15:03 UTC	52.494316	-0.6811706	5.005451679	
	1421804514	COLLECT	2021-10-02 15:45:12 UTC	2021-10-02 15:49:21 UTC	2021-10-02 15:44:40 UTC	2021-10-02 15:44:39.701 UTC	2021-10-02 15:44:44 UTC	2021-10-02 15:44:43.999 UTC	52.4930327	-0.6817552	3.625030994	3.68899998
	1421804514	DELIVER	2021-10-02 16:12:53 UTC	2021-10-02 16:14:19 UTC	2021-10-02 15:44:40 UTC	2021-10-02 15:44:39.701 UTC	2021-10-02 16:06:06 UTC	2021-10-02 16:06:04.999 UTC	52.4947878	-0.6804138	0.000823806	3.79299998

arrived time	completed time	arrived gps reading time	arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude	completed speed
2021-10-02 15:40:17 UTC	2021-10-02 15:40:52 UTC	2021-10-02 15:40:16.482 UTC			4.77E-07	4.835000038	2021-10-02 15:40:50.999 UTC			1.398399949
2021-10-02 15:16:06 UTC	2021-10-02 15:32:58 UTC	2021-10-02 15:16:05 UTC	52.494921	-0.6805551	0.966403902	6.735000134	2021-10-02 15:32:57 UTC	52.4948281	-0.680678	1.316935778
2021-10-02 15:46:21 UTC	2021-10-02 16:05:33 UTC	2021-10-02 15:46:19.999 UTC	52.4949064	-0.6805251	1.51293087	7.385000229	2021-10-02 16:05:32.119 UTC	52.4948541	-0.6806899	0.002070031
2021-10-02 16:13:19 UTC	2021-10-02 16:13:45 UTC	2021-10-02 16:13:17.999 UTC			0	5	2021-10-02 16:13:43.999 UTC			0.434242159

Image
Automated message sent to a courier stuck in traffic

Are you ok? What's the delay?

Looks like you haven't moved in a while. If you're having trouble please contact Live Support.

Having carefully constructed an argument based on the extended time spent at restaurants, Just Eat failed to actually particularise for each delivery, how much time was spent waiting at the restaurant. The only evidence Just Eat produced to substantiate the allegation was the timestamped arrival and completion coordinates for the order collection.

We understand this corresponds with when the courier first arrived at the restaurant, i.e. marked themselves as 'parked at restaurant', and where/when they marked the order as collected, as they were leaving to make the delivery. The data does not account for what period of time was counted towards the delay. The time recorded in the data, and any subsequent calculations made by us reflect the entire time spent at the restaurant.

There was one more set of coordinates shared as 'in transit' data, however we understood this to be marking the point that the courier accepted the order and started making their journey to the restaurant.

There was no GPS data showing the courier's movements during the waiting period either. The arrival and completion coordinates were presented as demonstrating that the courier had left the restaurant, however all we saw was the courier stepping outside of the restaurant, sometimes as little as three metres, or as briefly as eleven minutes.

In two of the cases, the order numbers identified in the request response email did not even match the order numbers referenced in the GPS data. Ultimately, we saw no data to verify that the couriers had left the area of the restaurant in any of the data returns. The couriers were merely stepping several metres away so as not to crowd already busy restaurants, and sometimes being explicitly instructed to do so by restaurant staff. We offer a full breakdown of these cases in the appendix.
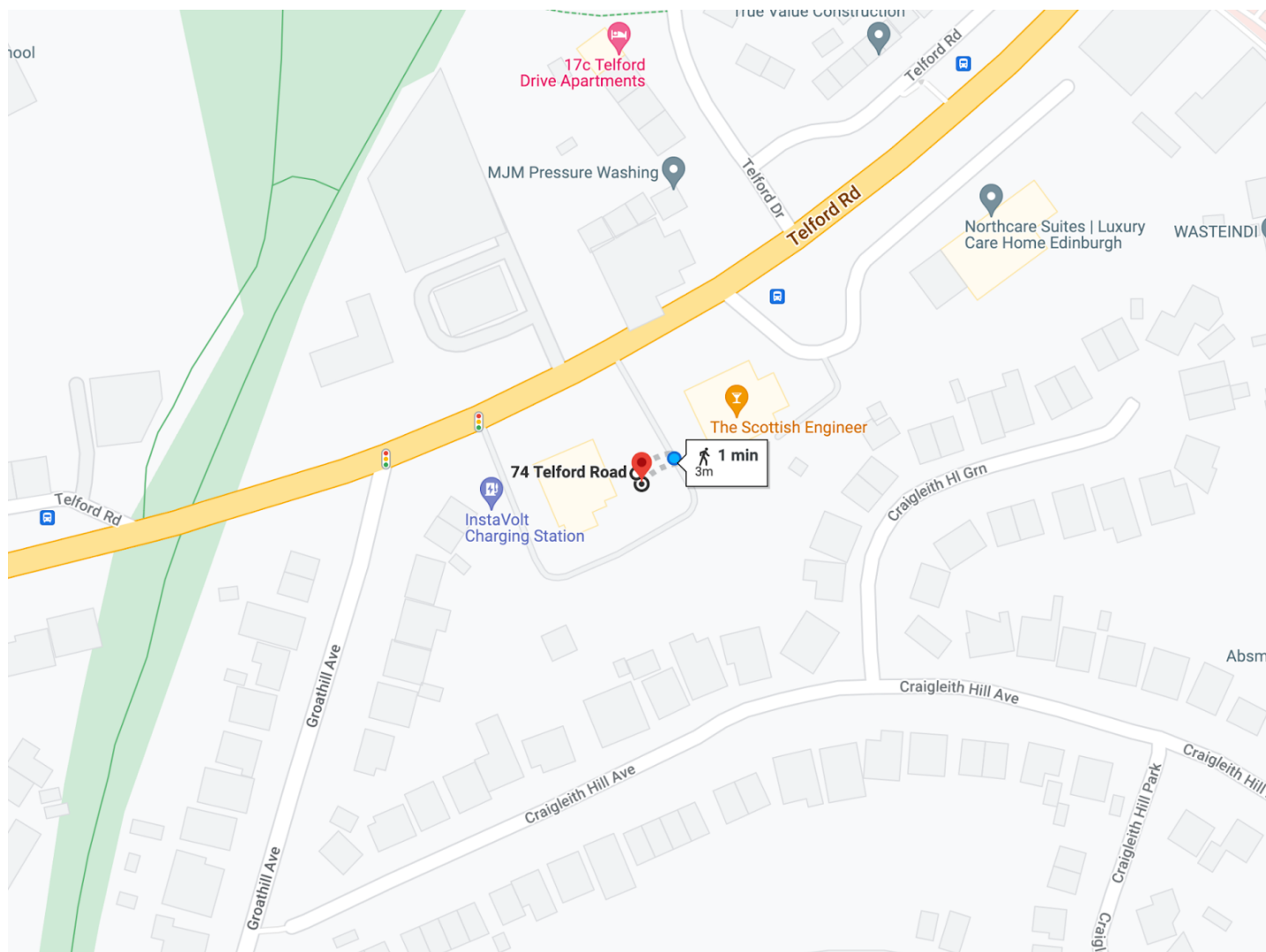
Just Eat therefore did not provide any evidence that it was the couriers' fault that the collection was delayed. In fact, this would not have been possible since there isn't a function in the Just Eat app that issues a notification for when the food is ready. Neither Just Eat, nor the couriers know when the order is ready for collection.

For all of the sophisticated surveillance technologies deployed across the platform, this has been left to the couriers to manually contend with. Couriers need to regularly go up to the counter to find out if the food is ready.

As one courier, Andreea Marinescu, explained:

"It's a chaotic system especially during busy times as the staff is busy doing their job, other drivers are asking for their orders, customers inside the restaurant are waiting for their orders as well. Sometimes the staff are calling out order numbers that are ready, sometimes they are putting them in the "ready" column on the screen and sometimes you just have to go to them and show them your order number so they can check if it is ready. Sometimes the food is ready but not the drinks and you still need to wait.

'There is no notification that the order is ready. You need to check with the restaurant staff to see if your order is ready.

McDonalds, for example,has a screen with all the order numbers. One column with "in preparing" and one column with "ready". But the staff are the ones that need to switch the orders on the ready column. In busy times you just go to them and tell them the order number as they do not have time to switch them, and they tell you if it is ready or not.

When you accept an order and swipe the "parked at restaurant" button there is an estimated collection time, which can be sooner or later than that time, depending on how busy the restaurant is and how many orders you have ahead of you. After that estimated time passes, at no particular time (it can be after 2 minutes, 5 min, 10 min, it is never the same), a pop-up message like "waiting for food? we are looking into it." with a "got it" button appears on the screen. You just press the "got it" button and continue to wait to collect. And again, there is no pattern for this pop-up message to appear. It can appear or not while you wait. You can wait 20 min and not receive reimbursement or you can wait 5 min and get reimbursement. As it clearly doesn't have a pattern, it is not possible to get "illegitimate financial gain" as you never know if you wait that you will get or not reimbursements...

I don't think any driver will risk their account for 50p- £1."

Across the cases where we had usable data, we found that couriers spent, on average, 18 minutes waiting for the collection of the order, accruing 1.44 pounds of 'illegitimate' financial gain (amounting to 4.46 per hour, less than half of the national minimum wage). At no point did Just Eat specify what duration is deemed to constitute a delayed collection period, or how hold payment calculations are made.

Order Number	Waiting Time Pay (GBP £)	Waiting Time (minutes, seconds)	Effective Waiting Time Pay Rate Per Hour (GBP £)
1421762518	1.2	16,52	4.27
1421804514	1.4	19,11	4.37
1436618444	1.4	22,22	3.75
1436706948	2	21,44	5.52
1480660027	0.15	8,16	1.09
1481548467	1.5	18,25	4.89
1481574638	0.75	12,55	3.48
1481848813	1.8	20,39	5.23
1485985979	1.8	19,21	5.58
1486162703	0.9	14,28	3.73
1508376517	1.5	18,06	4.97
1536773725	2.55	24,36	6.22
1536848801	0.9	14,49	3.64
1675864901	2.7	26,33	6.1
1676425534	2.1	21,54	5.75
1700092448	1.2	17,45	4.05
1701087363	2.25	22,39	5.96
1769043438	0.45	11,07	2.43
1770444579	0.9	14,42	3.67
Average	**£ 1.44**	**18,13**	**£ 4.46**

Lack of on the ground knowledge

Another striking feature of the disputed deliveries was that often they occurred on the same day, at the same restaurant. Instead of evidencing a repeated pattern by the courier of carrying out delayed collections, this rather indicates busyness at the restaurant on a given day, resulting in multiple orders to be delayed.

This also points to another pattern we observed in these cases. Of the nineteen individual deliveries analysed in the table above, sixteen involved McDonald's, which the couriers widely report to be a particularly disorganised working environment.

Andreea went on to explain:

"McDonald's is the busiest restaurant. The number of orders they receive in peak times are so many that it causes delays. It's like a domino effect.

If they delay with the first order, the rest will have delays as well. From my experience, compared to other restaurants, McDonald's is the restaurant you wait the most, when it is busy, due to the high volume of orders. And also I have a feeling that McDonald's are the ones challenging the reimbursement fees as they are the ones who need to pay them to the drivers."

We witnessed this ourselves when we visited several McDonald's locations, where there were obvious delays in the preparation of orders, and prioritisation of dine-in customers over takeaway orders. These dynamics often contribute to the disarray experienced by the couriers when they try to pick up their orders.

Couriers we spoke to also highlighted GPS inaccuracies as another cause of incorrect status updates, with one courier, David, explaining that:

"Just Eat is a system that has many glitches, the main one being the GPS location, it's happened to many couriers. The system says you are still at the restaurant when you have delivered the food and you have to sit outside the customer's address for 30-40 minutes trying to chat to support agents so they can manually change it. This is happening all over the country. I'm in a couple of groups on Facebook and this issue is brought up almost daily but Just Eat don't seem to be interested in these issues. I find it unfair to block someone from the system earning a living for a glitchy system."

On another occasion, we received reports that Just Eat (along with other delivery companies) was routing couriers through gated streets along the peace wall in Belfast which closes down in the evening. Ignorance of these issues betrays a complete lack of on the ground knowledge of the couriers' work, who complain of the company's cluelessness about the difficulties of their jobs. As Andreea Marinescu also attested:

"It is really frustrating when you see that you are not treated correctly and fairly by someone who has no idea what this whole business is about. They are staying behind a laptop screen not knowing the challenges the drivers are facing - waiting time, GPS issues, wrong delivery addresses, system issues such as the restaurant not having your order and they need to manually input into the system, rude customers that yell at you for being late even though it is not your fault, issues that we are solving ourselves as the support chat is often useless as they take ages to reply."

An automated platform

Image

Gated street along the peace wall in Belfast, Just Eat and other platforms route couriers through.

As the breakdown of flagged deliveries listed in the appendix will make clear, it's not obvious what kind of human review these management and termination decisions are subject to. In their Courier App Privacy Statement Just Eat claim not to use any kind of automated decision-making, though certainly this is deployed across work allocation and pricing if not termination decisions. Perhaps unsurprisingly, Just Eat quickly dismissed the suggestion of automated decision-making, giving us the same generic explanation the couriers got when we challenged them on it. We were sent the same exact phrases as before:

"As detailed previously, our agents manually observed the location data of the couriers and checked whether the couriers left the restaurants for an extended period of time after marking themselves as "Parked at Restaurant". This is a status in the application for couriers to indicate they are waiting at the restaurant to pick up the order. Our agents confirmed upon their manual observation that the couriers left the mentioned restaurants without updating their delivery status as "Order collected" and hence, they received undeserved financial gains that are for compensating couriers who are held in their deliveries due to late functioning restaurants."

Just Eat then turned to trade secrecy exemptions to counter the issues we raised with the data they presented to us and failed to clarify our questions or provide an alternative explanation. Just Eat said:

"We did not provide certain information to the couriers due to the applicable legitimate reasons that exempt us from the requirement to comply with the data access requests. Relying on the same exemptions, we will continue to withhold the requested information (metrics used to detect and observe fraudulent activities or our internal policies evidencing the human review performed by our agents) as they are

- are regarded as trade secrets and if disclosed, could allow couriers to circumvent JE's fraud detection measures: and/or
- contain technical and confidential information about the conduct of our services.

In addition to the above, we also deny your inaccurate estimations of our metrics and your conclusion about the couriers' waiting time in the restaurants."

Through the dismissals, we also observed numerous deactivations for use of automatic shift booking apps. One app, Shift Catcher for example, advertises a 7-15 shift increase per week. Many couriers do resort to these methods, forced to contend with faceless algorithmic decisions and a desperate need to secure enough work to make a living.

However in many instances, the data provided by Just Eat still fails to adequately substantiate the allegations made. In one case we assisted, the data corroborated the significant reduction in requests for shifts per minute following a warning by Just Eat to the courier. But Just Eat insisted that the courier had carried on using the app

and that the number of acceptable requests had been exceeded. Again, Just Eat did not disclose what the number of acceptable requests is. The courier in question explained that he did use the shift grabber app, but that he deleted it immediately following his warning from the platform. In all these cases, the policy seems to be the same: dismiss first, review later.

Courier ID	Total Requests Received	Date (When Data Collection Started)	Date (When Data Collection Ended)	Total Requests Received (From time period in question)	Average Requests (per minute)
e3d33d8b- 4823- 4c8a- 867f- 4af5bad26771	6578	12/23/2022	12/29/2022	5891	0.68
e3d33d8b- 4823- 4c8a- 867f- 4af5bad26771	7038	1/13/2023	1/19/2023	252	0.03

Just Eat explained, "Our investigation team members manually observed and confirmed that during these time frames, you exceeded the number of acceptable Requests per Minute on multiple occasions which indicates that you are using a third-party App to abuse the way the Courier App works."
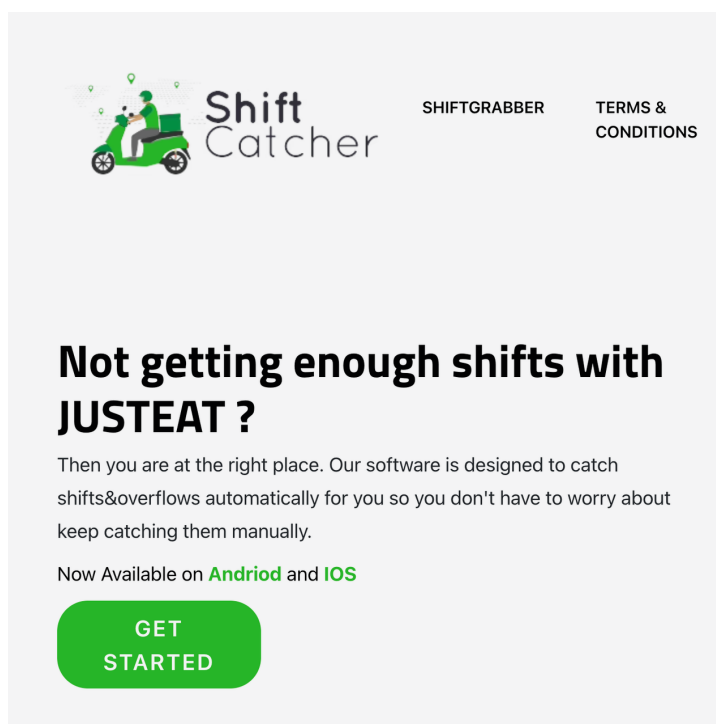

SHIFTGRABBER   TERMS & CONDITIONS

Not getting enough shifts with JUSTEAT ?

Then you are at the right place. Our software is designed to catch shifts&overflows automatically for you so you don't have to worry about keep catching them manually.

Now Available on **Andriod** and **IOS**

GET STARTED

Image
Screenshot of the Shift Catcher website

Finally, another common reason for deactivation, on Just Eat as well as other platforms, is taking too long to complete the deliveries. When one courier made a request seeking evidence of the review process for this decision, Just Eat simply said: "the percentage of orders impacted is significantly higher than what we would expect. These delays resulted in a material impact to Just Eat, which has resulted in a breach of your courier agreement." The courier, Daniel tried to explain his situation to Just Eat but was not given an opportunity to discuss the dismissal:

Similar stories are repeated by all couriers. Ed Gomez, who was also dismissed due to receiving hold payments, making a total "illegitimate financial gain" of £3.45 from two deliveries, said he tried calling Just Eat numerous times but couldn't get through and that his emails were left unanswered. "I had around 7,000 deliveries done in my account without issues" Gomez said, but the two delayed collections were enough to permanently deactivate him.

Image
Ed Gomez waiting to pick up an order at McDonalds

" I didn't receive any warning, nothing directly, they closed it, I tried to call and send emails, it didn't solve anything, I was told that I was banned and nothing can be solved anymore. I called several times, several emails but the same result. I can't log in, my account is closed. In 2 years, almost 10k deliveries and I was late for 4 orders in 4 different weeks and that's how they closed my account. I was late because there was traffic and many streets were closed and under maintenance, I kept trying to explain this to them and nothing, I was left with a closed account."
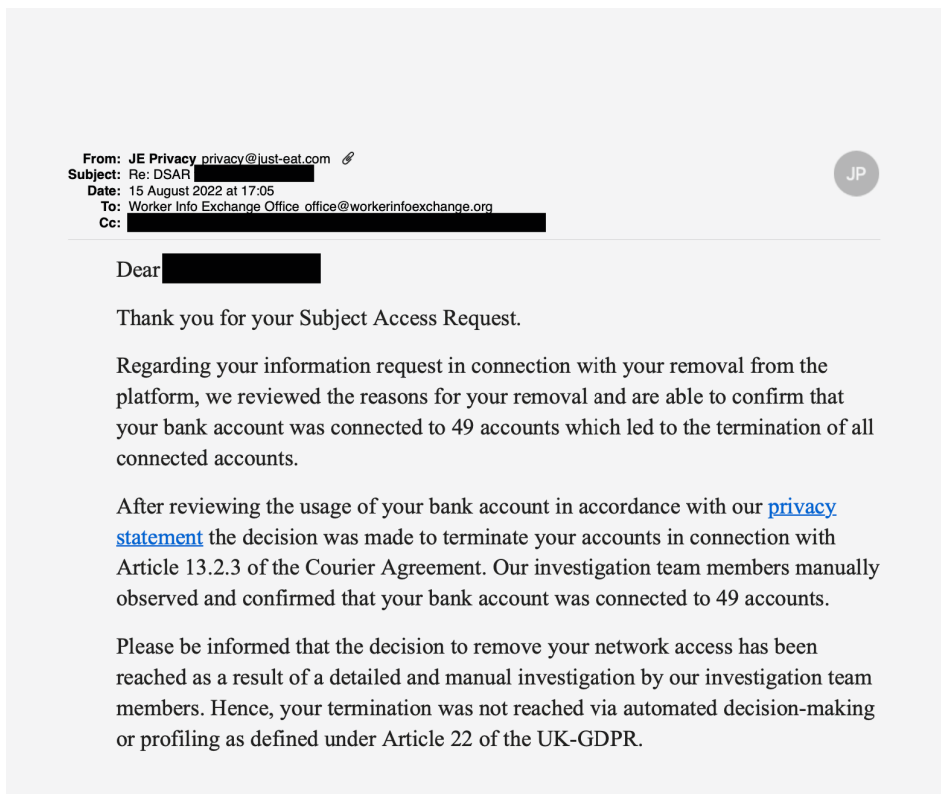
Daniel, Just Eat courier

A dispensable workforce

While Just Eat may contest their use of automated decision-making, it is difficult to discern any meaningful level of human involvement across these dismissals, particularly given the absence of facts relating to the day to day reality of working these jobs. If the dismissal decisions "were reached as a result of detailed and manual investigations" as Just Eat claims, this would rather suggest that Just Eat was satisfied to dismiss the workers despite overwhelming evidence that they are innocent.

Just Eat's cavalier treatment of workers has in other circumstances led to black market conditions to proliferate, where courier accounts can be bought or rented, creating a workforce that is acutely vulnerable to exploitation.

This has been made possible by employers abusing substitution clauses to allow some couriers to nominate others to carry out deliveries on their behalf.

As Alan Bogg and Michael Ford note: "where Deliveroo riders sought union recognition, the company introduced new contracts with a wide substitution clause.

However, the flexibility gig platforms so often advertise as offering workers the freedom to choose where and when they work, without being tied to predetermined shifts, makes it completely unnecessary for couriers to actually use the substitution clause.

From: JE Privacy privacy@just-eat.com
Subject: Re: DSAR
Date: 15 August 2022 at 17:05
To: Worker Info Exchange Office office@workerinfoexchange.org
Cc:

Dear

Thank you for your Subject Access Request.

Regarding your information request in connection with your removal from the platform, we reviewed the reasons for your removal and are able to confirm that your bank account was connected to 49 accounts which led to the termination of all connected accounts.

After reviewing the usage of your bank account in accordance with our privacy statement the decision was made to terminate your accounts in connection with Article 13.2.3 of the Courier Agreement. Our investigation team members manually observed and confirmed that your bank account was connected to 49 accounts.

Please be informed that the decision to remove your network access has been reached as a result of a detailed and manual investigation by our investigation team members. Hence, your termination was not reached via automated decision-making or profiling as defined under Article 22 of the UK-GDPR.

Essentially, this clause has only allowed companies to take advantage of marginalised individuals including migrant workers. This raises serious concerns over compliance with modern slavery obligations. Despite Just Eat's correct identification of women, migrants and children as priority risk groups within their supply chains and operations, which parts of its workforce are contained in supply chains compared with internal operations, or how precisely risks were mitigated is far from clear, given the conditions that have been allowed to flourish.

In one disturbing case we reviewed, Just Eat admitted in a response to a courier data request that the bank account details recorded for this worker's account were also linked to 49 separate other Just Eat courier accounts. Rather than investigate the circumstances of how this might have come to be, or enquiring about the welfare of the workers involved, Just Eat dismissed this worker and the 49 others with shared bank account details which it had previously approved. This again points to either Just Eat's complicity by turning a blind eye to the problem in the first place, and/or shockingly poor internal due diligence processes that should have immediately detected this.

Conclusion
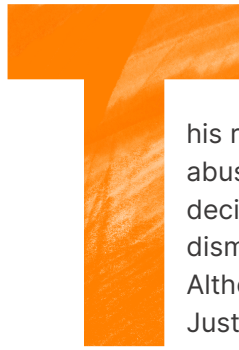
This report illustrates the pattern of abusive use of automated decision-making to summarily dismiss workers at Just Eat. Although this report focuses on Just Eat, the company is by no means unique. The problem of unfair dismissal of precarious workers is pervasive across the entire so-called gig economy.

At the root of the problem is the misclassification of Just Eat employees as independent contractors. As the report shows, the workers are placed under intensive management surveillance and control at work. This effectively qualifies Just Eat couriers as employees with rights, including the right to protection from unfair dismissal, even if Just Eat management refuse to recognise them as such.

While Just Eat touts this intense surveillance and control as necessary for platform security, it is clear that another motive is to discourage or make it impossible for workers to 'multi-app' and work for multiple platforms simultaneously without risk of dismissal or disciplinary action. Just Eat therefore demands personal service from workers but without respecting employment rights that come with this status.

The misuse of substitution clauses on the other hand, also a tactic to avoid employment classification, has placed vulnerable workers at great risk of modern slavery and exploitation.

And so, substitution and personal service are two sides of the same coin, abuse of substitution helps misclassify workers as self employed. while concealing the employer demand for personal service evades the correct employment classification.

Platform companies are perversely incentivised by the market to cause great harm to workers and the communities where they do business. They over supply workers relative to demand, since the surplus of workers waiting unpaid boosts companies' competitive network effects and response times, while simultaneously reducing available work and depressing pay for precarious workers.

The vast asymmetry in power has emboldened managers to use faulty and crudely designed automated management tools to control workers on the platform. Because of the abundance of workers on stand-by, unpaid, and the lack of available recourse, platforms have resorted to robo-firing workers with impunity. They fail to exercise the basic HR due diligence of conducting a proper investigation and hearing an appeal from because they do not want to spend the resources to do even that.

The psychological harm to workers who lose their jobs under these circumstances – falsely accused of fundamental dishonesty without a chance of proving their innocence - cannot be underestimated. The recent Post Office Horizon Scandal is a prime example of the devastating effects of leaving workers under this kind of incrimination.

There is a carelessness in the poor design of fraud detection systems at Just Eat and other employers which sees hollowed out management decision-making errors compounded by even poorer machine learning systems. But the problems do not end there, the case studies in this report demonstrate the problems of automating poorly designed business processes for work execution via a poorly designed app.

The workers in these cases report poor working conditions at restaurants never designed to cope with the volume of deliveries now undertaken. The app is poorly designed, requiring continuous and needless manual status updates and glitchy GPS mapping. Even shift allocation is chaotic and when drivers and third parties attempt to automate this process to make ends meet with solutions like Shift Grabber, they get crushed by Just Eat management.

We are into the second decade of the gig economy and employment law has yet to catch up to provide the protections workers desperately need.

As platforms mature and seek a path to profitability, the grip of algorithmic management gets tightened. Pay and work allocation is increasingly driven by real-time, dynamic algorithmic functions which remain completely opaque and wide open to employer abuse.

In Europe, there has been progress with the EU Platform Work Directive which has now been approved by the Commission and European Parliament, but remains pending before the Council. In broad terms, while the directive does not go far enough, it would at least outlaw the abuses we have discussed in this report. A human would have to provide meaningful explanations of dismissal decisions and workers would have the right of appeal. In addition, workers would have the right to be fully informed about how they might be subjected to automated decision-making at work.

Meanwhile, the British government has failed to bring forward an employment bill promised since 2015, which was supposed to tackle the excesses of the gig economy. Worse, the Data Protection and Digital Information Bill threatens to weaken the access and transparency rights of the UK GDPR, as well as much needed protections from unfair automated decision-making.

Our recent victory at the Court of Appeal in Amsterdam demonstrates the critical importance to gig workers of the right to data access, algorithmic transparency and protection from exploitative automated decision-making at work.

As the modern workplace undergoes digital transformation, algorithmic control will be pervasive for all. We now urgently need employment and data protection laws to be strengthened and enforced.

Lets take back control so we can make the most of the benefits offered by technology to improve work and to protect workers from management who would deploy technology to abuse.

Appendix

B
elow are the
breakdown of
deactivation cases we
examined due to
delayed collections.

Courier 1

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1421804514	16:41	02/10/2021	McDonald's® – Corby (The Peel Centre)	The Peel Centre, Corby NN17 5DT, United Kingdom	£1.4
1421762518	16:14	02/10/2021	McDonald's® – Corby (The Peel Centre)	The Peel Centre, Corby NN17 5DT, United Kingdom	£1.2
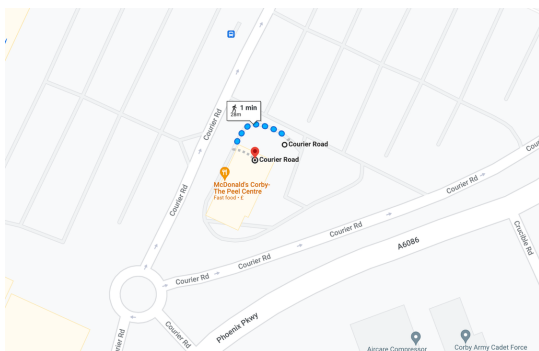
Courier 1 order number 1421804514

Arrival time: 15:46:21 UTC
Completion time: 16:05:32 UTC
Waiting time: 19 minutes, 11 seconds

52.4949064	-0.6805251	1.51293087	7.385000229	2021-10-02 16:05:32.119 UTC	52.4948541
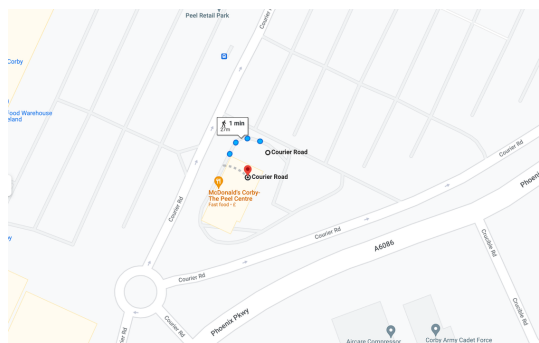
Courier 1 number 1421762518

Arrival time: 15:16:06 UTC
Completion time: 15:32:58 UTC
Waiting time: 16 minutes, 52 seconds

arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude
52.5015398	-0.6975441	4.77E-07	4.835000038	2021-10-02 15:40:50.999 UTC	52.501625	-0.697504

Courier 2

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1436706948	18:41	16/10/2021	McDonald's® - Fareham Drive Thru	Speedfields Park, Fareham PO14 1TZ, United Kingdom	£2
1436618444	18:15	16/10/2021	McDonald's® - Fareham Drive Thru	Speedfields Park, Fareham PO14 1TZ, United Kingdom	£1.4
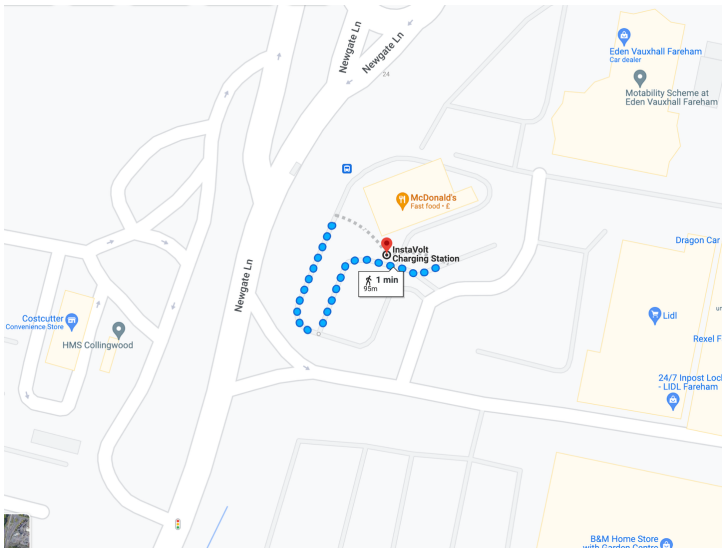
Courier 2 order number 1436706948

Arrival time: 17:50:36 UTC
Completion time: 18:12:20 UTC
Waiting time: 21 minutes, 44 seconds

| 50.8344979 | -1.1871605 | 4.16E-09 | 4.397999763 | 2021-10-16 18:12:18.125 UTC | 50.8345986 | -1.1871694 | 0.00034684 |
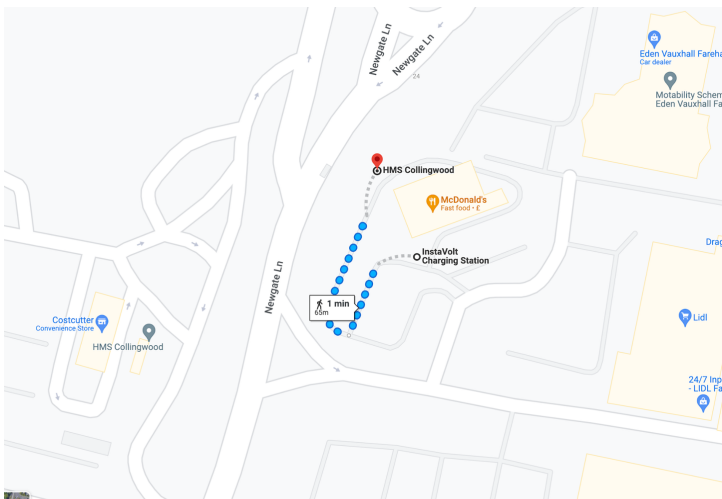
Courier 2 order number 1436618444

Arrival time: 17:18:23 UTC
Completion time: 17:40:45 UTC
Waiting time: 22 minutes, 22 seconds

arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude
50.8345059	-1.1867537	8.17E-07	5.019000053	2021-10-16 17:40:44 UTC	50.8345858	-1.1871424

Courier 3

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1536773725	19:06	21 Jan 2022	McDonald's® – Telford Road	74 Telford Road, Edinburgh EH4 2NF, United Kingdom	£2.55
1536848801	19:32	21 Jan 2022	McDonald's® – Telford Road	74 Telford Road, Edinburgh EH4 2NF, United Kingdom	£0.90
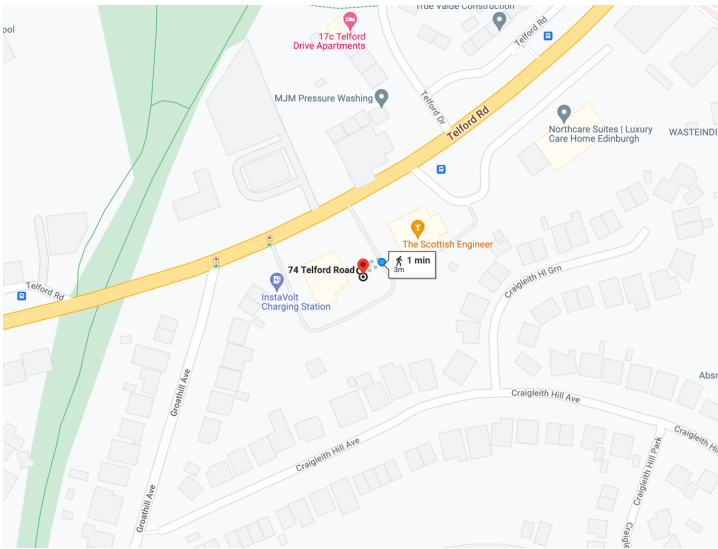
Courier 3 order number 1536773725

Arrival time: 19:06:53 UTC
Completion time: 19:31:29 UTC
Waiting time: 24 minutes, 36 seconds

| 55.9613233 | -3.2420792 | 0.422266126 | 7.354000092 | 2022-01-21 19:31:28.498 UTC | 55.9612964 | -3.2420542 |
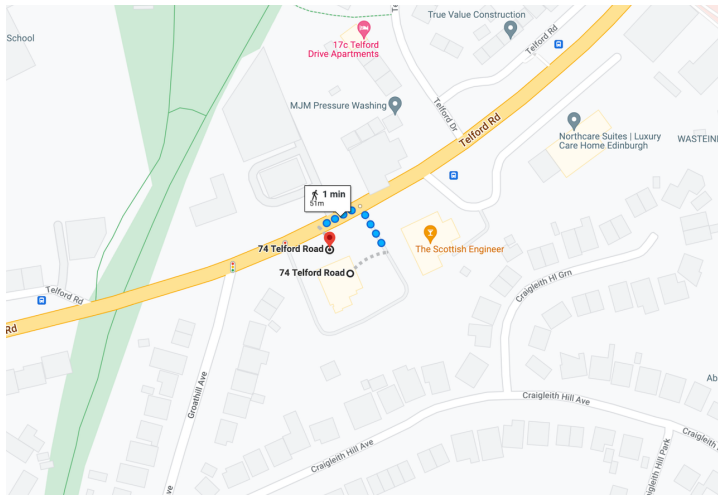
Courier 3 order number 1536848801

Arrival time: 19:41:07 UTC
Completion time:19:55:56 UTC
Waiting time: 14 minutes, 49 seconds

arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude
55.9613309	-3.2422728	0.000702447	6.116000175	2022-01-21 19:55:55.085 UTC	55.9614407	-3.2424419

Courier 4

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1481548467	18:50	28 Nov 2021	McDonald's© – Durham Arnison Centre	Arnison Retail Centre, Durham DH1 5GD, United Kingdom	£1.50
1481574638	19:02	28 Nov 2021	Burger Priest Durham	Unit M Arnison Retail Park, Abbey Road	£0.75
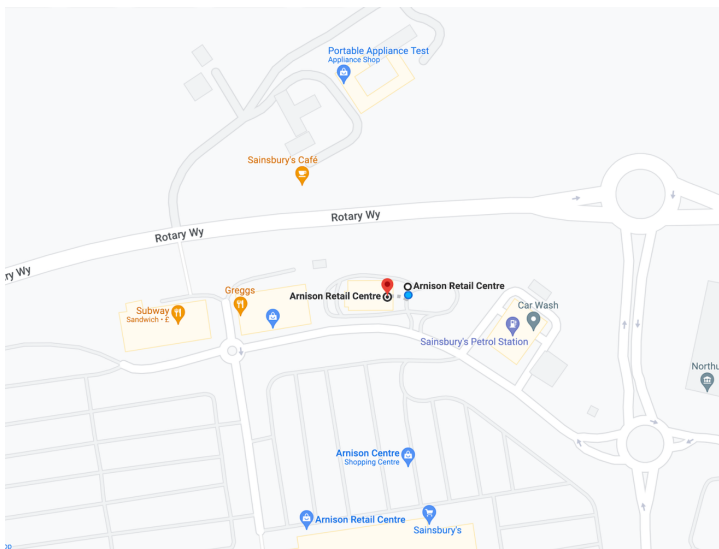
Courier 4 order number 1481548467

Arrival time: 19:02:10 UTC
Completion time: 19:20:35 UTC
Waiting time: 18 minutes, 25 seconds

arrived_latitude	arrived_longitude	arrived_speed	arrived_accuracy	completed_gps_reading_time	completed_latitude	completed_longitude
54.80827611	-1.579669053	3.395333333	5	2021-11-28 19:20:33.183 UTC	54.80823003	-1.579830669
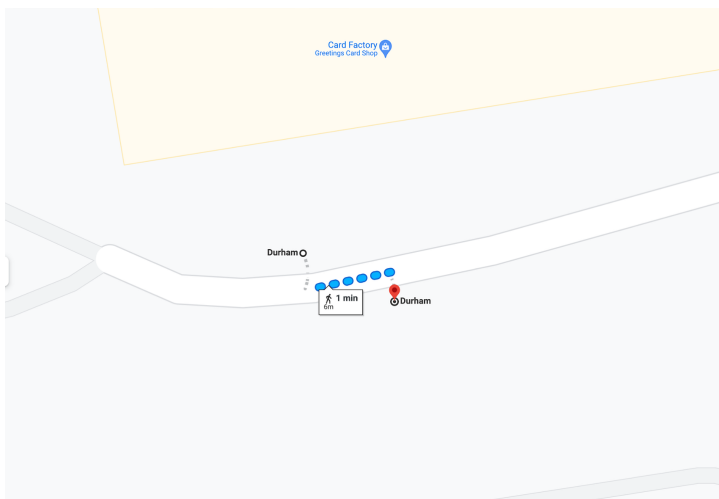
Courier 4 order number 1481574638

Arrival time: 19:32:38 UTC
Completion time:19:45:33 UTC
Waiting time: 12 minutes, 55 seconds

54.8079264	-1.58170039	1.389	10	2021-11-28 19:45:32 UTC	54.80789642	-1.581602125

Courier 5

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1508376517	18:53	23 Dec 2021	McDonald's® – Bridlington – Bessingby Road	Mcdonald's, Bessingby Industrial Estate, Bridlington YO16 4SJ, United Kingdom	£1.50
1508032650	16:04	23 Dec 2021	McDonald's® – Bridlington – Bessingby Road	Mcdonald's, Bessingby Industrial Estate, Bridlington YO16 4SJ, United Kingdom	£0.30
1508159969	17:23	23 Dec 2021	McDonald's® – Bridlington – Bessingby Road	Mcdonald's, Bessingby Industrial Estate, Bridlington YO16 4SJ, United Kingdom	£0.30

We were unable to perform analysis of Courier 5's case as the three flagged orders in the response letter did not match the data supplied to substantiate it. The data sent to the courier was only correct for the first order that was identified, while the second order #1509061745 was not listed by Just Eat as a delayed collection at all. There was no data for orders #1508032650 and #1508159969 as seen in the above table.

email	order number	job type	begin parking time	entered time	accepted time
███████@yahoo.com	1508376517	COLLECT	2021-12-23 18:54:06 UTC	2021-12-23 18:57:06 UTC	2021-12-23 18:53:55 UTC
███████@yahoo.com	1508376517	DELIVER	2021-12-23 19:18:03 UTC	2021-12-23 19:19:25 UTC	2021-12-23 18:53:55 UTC
███████@yahoo.com	1509061745	DELIVER	2021-12-24 15:42:03 UTC	2021-12-24 15:43:13 UTC	2021-12-24 15:21:51 UTC
███████@yahoo.com	1509061745	COLLECT	2021-12-24 15:25:13 UTC	2021-12-24 15:28:14 UTC	2021-12-24 15:21:51 UTC

The order collection coordinates sent to the courier:

arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude	completed speed
54.0823853	-0.2084454	0.007590787	4.188000202	2021-12-23 19:12:11.967 UTC	54.0824007	-0.208349	2.862989187
		1.188614249	8.829000473	2021-12-23 19:19:28.849 UTC			1.170186877
		4.01E-11	4.331999779	2021-12-24 15:43:39.999 UTC			3.52E-12
54.0825305	-0.2081519	1.68E-10	4.90899992	2021-12-24 15:33:49.194 UTC	54.0824106	-0.2078091	0.001410816

Courier 5 order 1508376517

Arrival time: 18:54:06 UTC
Completion time: 19:12:13 UTC
Waiting time: 18 minutes 06 seconds
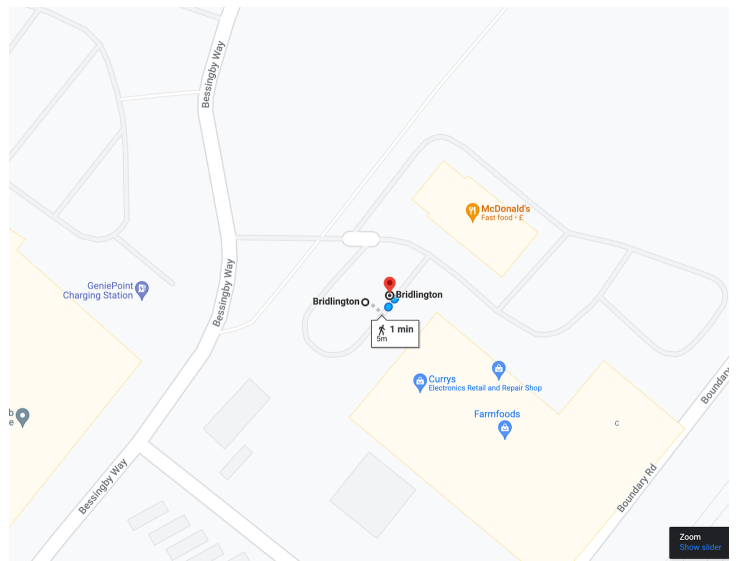
Courier 6

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1485985979	09:42	03 Dec 2021	McDonald's® - Worcester Hylton Road	Hylton Retail Park (Tybridge) 37 Hylton Road, Worcester WR2 5JS, United Kingdom	£1.80
1486162703	12:39	03 Dec 2021	McDonald's® - Worcester Hylton Road	Hylton Retail Park (Tybridge) 37 Hylton Road, Worcester WR2 5JS, United Kingdom	£0.90
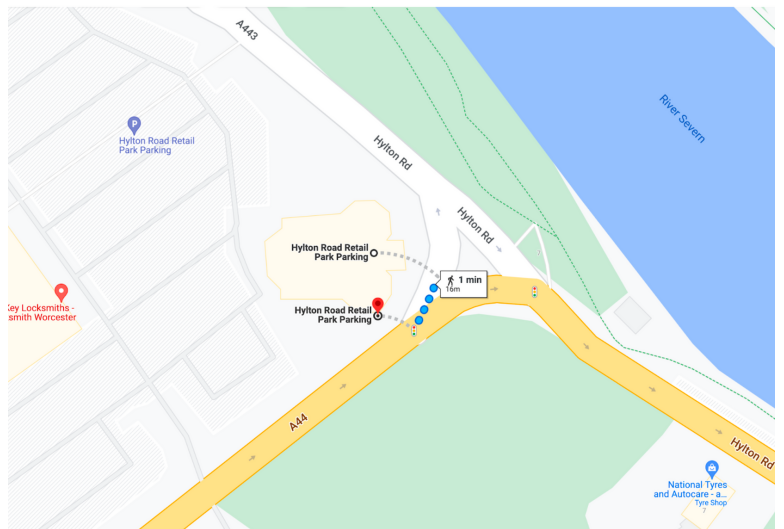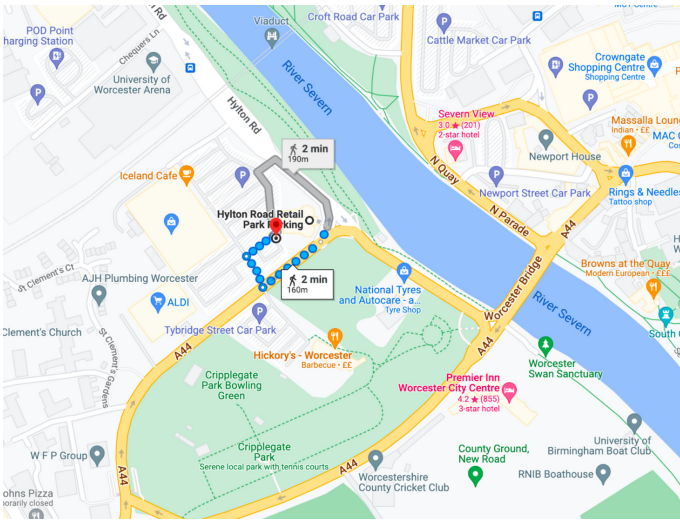
Courier 6 order number 1485985979

Arrival time: 09:49:55 UTC
Completion time: 10:09:16 UTC
Waiting time: 19 minutes 21 seconds

Courier 6 order number 1486162703

Arrival time: 12:42:03 UTC
Completion time: 12:56:31 UTC
Waiting time: 14 minutes, 28 seconds

arrived latitude	arrived longitude	arrived speed	arrived accuracy	completed gps reading time	completed latitude	completed longitude	completed speed
52.19165329	-2.229150049	0.121224292	8	2021-12-03 10:09:14 UTC	52.1914954	-2.229631	2.838461637
			3.789999962	2021-12-03 10:28:43 UTC			0.468426615
52.19165329	-2.229150049	0.074822381	4.542379856	2021-12-03 12:56:30.011 UTC	52.1914972	-2.2291339	0.020292846
			8.727999687	2021-12-03 13:09:38.388 UTC			0.135854527

Courier 7

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1675864901	13:43	05 June 2022	McDonald's® - Coatbridge	1 Coatbank Street, Coatbridge ML5 3SP, United Kingdom	£2.70
1676425534	20:13	05 June 2022	McDonald's® - Glasgow - Easterhouse	800 Shandwick Street, Glasgow G34 9PE, United Kingdom	£2.10
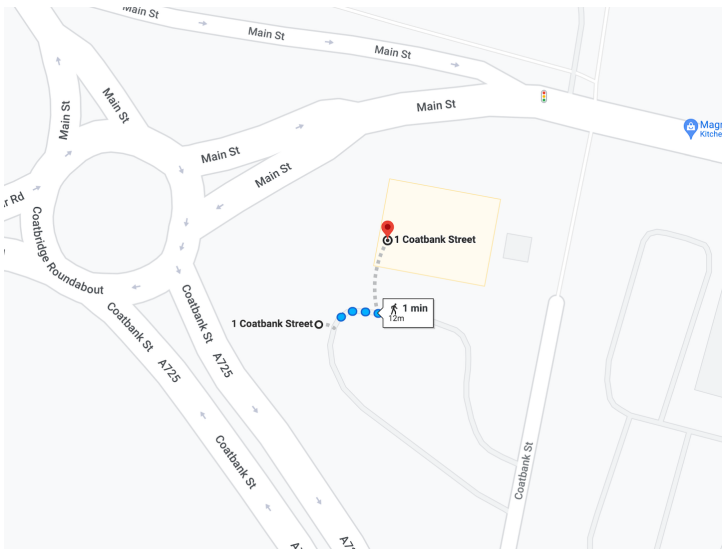
Courier 7 order #1675864901

Arrival time: 2022-06-05 12:45:11 UTC
Completion time: 2022-06-05 13:11:44.001 UTC
Waiting time: 26.33 minutes

arrived_latitude	arrived_longitude
55.8603161	-4.0203954

completed_latitude	completed_longitude
55.8604921	-4.020139
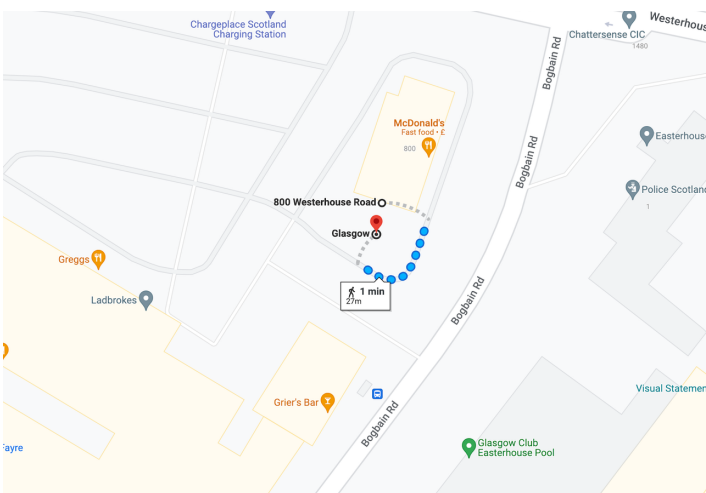
Courier 7 order #1676425534

Arrival time: 2022-06-05 19:14:47 UTC
Completion time: 2022-06-05 19:36:41 UTC
Waiting time: 21.54 minutes

arrived_latitude	arrived_longitude
55.868691	-4.1201075

completed_latitude	completed_longitude
55.8686241	-4.1201289

Courier 8

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1701087363	18:55	01 July 2022	McDonald's® - Shrewsbury - Battlefield	Battlefield Road, Shrewsbury SY1 4AQ, United Kingdom	£2.25
1700092448	20:38	30 June, 2022	Burger King - Shrewsbury Battlefield	Battlefield Shrewsbury	£1.20
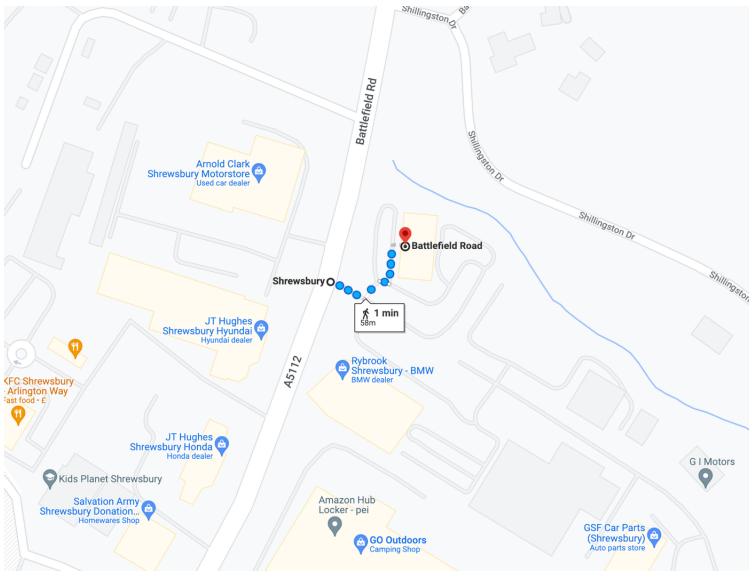
Courier 8 order #1701087363

Arrival time: 17:58:53 UTC
Completion time: 18:21:32 UTC
Waiting time: 22 minutes, 39 seconds

arrived_latitude	arrived_longitude
52.7403748	-2.7207331

completed_latitude	completed_longitude
52.7405388	-2.7201642
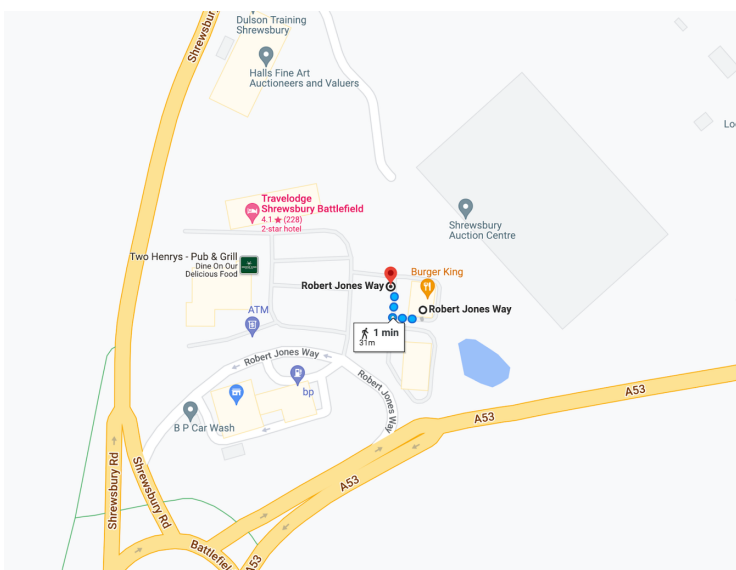
Courier 8 order #1700092448

Arrival time: 19:38:20 UTC
Completion time: 19:56:05 UTC
Waiting time: 17 minutes, 45 seconds

arrived_latitude	arrived_longitude
-2.7161022	0.015973473

completed_latitude	completed_longitude
52.7479215	-2.7161022

Courier 9

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1420759069	18:22:54	2021-10-01	McDonald's® – Sauciehall Street	Glasgow	£4.0
1419647374	18:55:19	2021-09-30	Absurd Bird – Glasgow* (73 Nelson Mandela Place)	Glasgow	£2.60

We were unable to perform analysis of Courier 9's case as the two flagged orders in the response letter did not match the data supplied to substantiate it. In the email it was stated that order #1420759069 was placed at 18:22:54, however the data showed that this order was completed at 18:17:15 UTC with the courier arriving at the restaurant at 17:41:59 UTC. Similarly, order #1419647374 appears to have been placed at 18:55:19 according to the email sent to the courier; however, the data for this order shows arrival and completion times of 18:06:52 UTC and 18:28:27 UTC.

We wrote to Just Eat requesting an explanation of these discrepancies in November 2022, February 2023 and April 2023 but were not able to get a response.

Courier 10

| Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1480660027	20:40:35	27/11/2021	McDonald's® – Seafield Road	Edinburgh	£0.15
1481848813	23:13:39	28/11/2021	McDonald's® – London Road Edinburgh	Edinburgh	£1.8
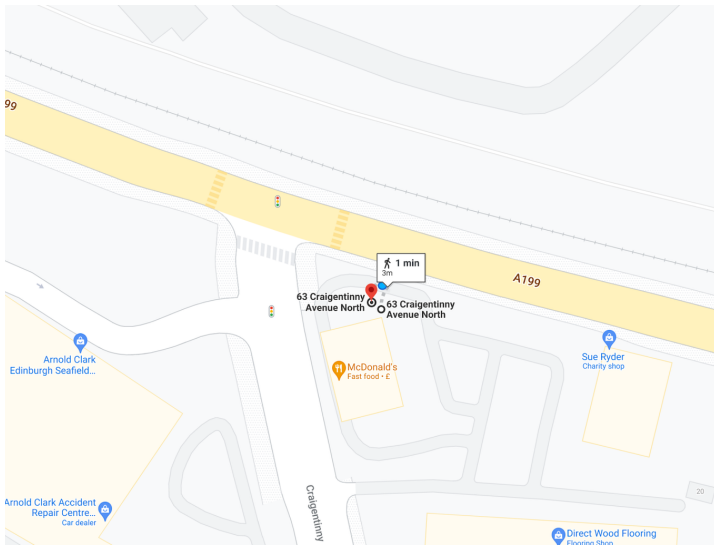
Courier 10 order #1480660027

Arrival time: 20:45:46 UTC
Completion time: 20:54:02 UTC
Waiting time: 08 minutes, 16 seconds

arrived_latitude	arrived_longitude
55.9677107	-3.1423099

completed_latitude	completed_longitude
55.9688263	-3.1423493
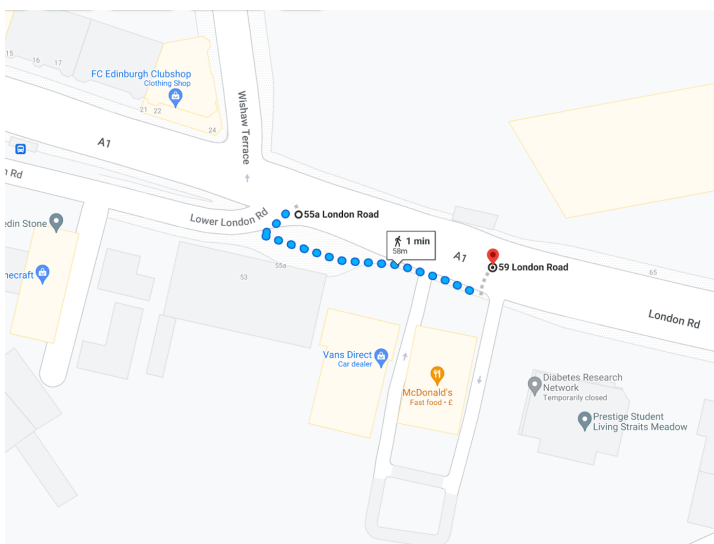
Courier 10 order #1481848813
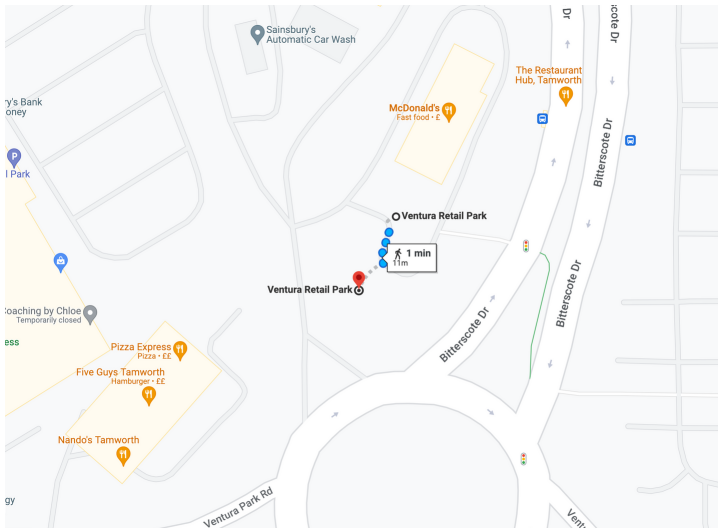
Arrival time: 23:16:06 UTC
Completion time: 23:36:45 UTC
Waiting time: 20 minutes, 39 seconds

arrived_latitude	arrived_longitude
55.9561902	-3.1604514

completed_latitude	completed_longitude
55.9560746	-3.1596922

Courier 11

Order Number	Time of order placed	Date of order	Restaurant Info	Location	Financial Gain
1770444579	16:10:51	2022-09-11	McDonald's® – Tamworth (Ventura Retail Park)	Tamworth	£0.90
1769043438	22:17:53	2022-09-09	McDonald's® – Tamworth (Ventura Retail Park)	Tamworth	£0.45

Courier 11 order #1770444579
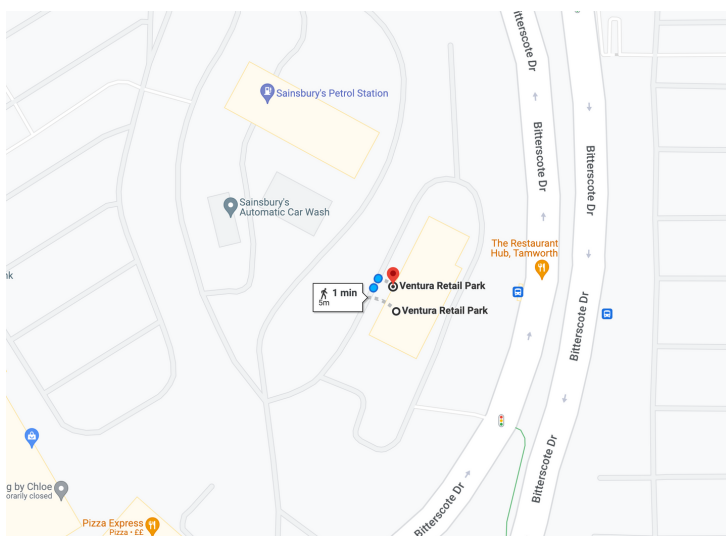
Arrival time: 15:11:19 UTC
Completion time: 15:26:01 UTC
Waiting time: 14 minutes, 42 seconds

arrived_latitude	arrived_longitude
52.6272632	-1.7044944

completed_latitude	completed_longitude
52.6274349	-1.7043524

Courier 11 order #1481848813

Arrival time: 21:21:49 UTC
Completion time: 21:32:56 UTC
Waiting time: 11 minutes, 07 seconds

arrived_latitude	arrived_longitude
52.6276187	-1.7042533

completed_latitude	completed_longitude
52.6276756	-1.7042648