|  |  |  |
| --- | --- | --- |
|  MoJ_BLK_SML |  |  |
|  |  |  |
|  | **Our Reference:** 584-16 FOI 108152  |   | November 2016 |

**Freedom of Information Request**

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

**Previous request: FOI 107869**

Under the Safeguarding Vulnerable Groups Act 2006, chapter 47, section 7, paragraph 1(a), "An individual commits an offence if he (a) Seeks to engage in regulated activity from which he is barred."

1. Can you tell me, in 2015-16 how many individuals were found guilty of the above offence and where the defendants were from?

2. If possible, could you tell me the lengths of the resulting convictions. If this is not possible, could you tell me how many were summary convictions and how many were convictions on indictment?

**Refined request**:

**With regard to point 1 of my request, in which I ask where the offenders were from, could you tell me the location of the courts where the defendant was proceeded against.**

**With regard to point 2 of my request, in which I ask the lengths of resulting convictions, I mean, could you tell me what sentences were handed down for people committing the offence in question (Safeguarding Vulnerable Groups Act 2006, chapter 47, section 7, paragraph 1(a), "An individual commits an offence if he (a) Seeks to engage in regulated activity from which he is barred.")**

**I acknowledge that you cannot currently provide data for Quarter 1 2016 (January to March)**

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

I can confirm that the department holds the information that you have asked for and

I am pleased to provide you with the attached table as described below:

The number of Persons proceeded found guilty and sentenced at all courts under Safeguarding Vulnerable Groups Act 2006 by court and sentence type in England and Wales, in 2015. Please note the offences are triable-either-way meaning they can be convicted at the magistrates’ Courts and Crown Court, and these are identifiable in the table.

The information you originally requested for 2016 is a subset of the Criminal Justice Statistics data held in its final form which we routinely publish. It is intended for publication on the Ministry of Justice website in the summer 2017.

**How to Appeal**

**Internal Review**

If you are not satisfied with this response, you have the right to an internal review. The handling of your request will be looked at by someone who was not responsible for the original case, and they will make a decision as to whether we answered your request correctly.

If you would like to request a review, please write or send an email to the Data Access and Compliance Unit within two months of the date of this letter, at the

following address:

Data Access and Compliance Unit (10.34),

Information & Communications Directorate,

Ministry of Justice,

102 Petty France,

London

SW1H 9AJ

E-mail: data.access@justice.gsi.gov.uk

**Information Commissioner’s Office**

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner’s Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner’s Office at the following address:

Information Commissioner’s Office,

Wycliffe House,

Water Lane,

Wilmslow,

Cheshire

SK9 5AF

Internet address: <https://www.ico.gov.uk/Global/contact_us.aspx>

**EXPLANATION OF FOIA - SECTION 22 – INFORMATION FOR FUTURE PUBLICATION**

We have provided below additional information about Section 22 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

**The legislation**

**Section 1: Right of Access to information held by public authorities**

 (1) Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

**Section 22: Information intended for future publication**

(1)Information is exempt information if—

(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

(2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

## Guidance

Section 22 exempts information requested by an applicant if it is intended for future publication. It encourages public authorities to place information in the public domain proactively.

The Freedom of Information Act recognises the desirability of information being freely available in its own right, but section 22 also acknowledges that public authorities must have freedom to be able to determine their own publication timetables. This allows them to deal with the necessary preparation, administration and context of publication. Where information is intended to be made available, individual requests for information should not determine the publication timetables of public authorities. This protection is afforded whether it is the public authority itself or another person which intends to publish – whether an individual, a company or another public authority.

The starting point for section 22 is that it exempts information which is held by a public authority with a view to its publication, by the authority or any other person, at some future date. The exact date, however, does not necessarily have to be decided already. When using the section 22 exemption, you should consider whether it is possible and appropriate to disclose the expected publication date.

Section 22 is subject to two important qualifications:

- it must be reasonable in all the circumstances to withhold the information until the date of publication

- the public interest test must be satisfied

These qualifications recognise that sometimes there will be an overriding public interest in the information being released prior to the intended publication date. Public authorities should not be able to avoid putting information in the public domain by adopting unreasonable publication timetables or an 'intention' to publish where there is little prospect of that happening within a reasonable timescale.

**EXPLANATION OF FOIA - SECTION 44 – PROHIBITIONS ON DISCLOSURE**

We have provided below additional information about Section 44 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

**The legislation**

**Section 1: Right of Access to information held by public authorities**

(1) Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

**Section 44:** **Prohibitions on disclosure.**

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—

(a) is prohibited by or under any enactment,

(b) is incompatible with any Community obligation, or

(c) would constitute or be punishable as a contempt of court.

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1) (a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

**Guidance**

Section 44 applies:

* where there is an existing statutory bar to disclosure
* where disclosure would be incompatible with a European Community obligation
* where disclosure would constitute contempt of court at common law

The Human Rights Act 1998 can be a statutory bar to the disclosure of information.

This exemption overrides the normal right of access to information under the Freedom of Information Act where another enactment otherwise prohibits it. In these cases, not only will the information be exempt, but the public authority will have no discretion to release voluntarily either. If the disclosure would be unlawful (regardless of whether any penalty might result) then the prohibition must be observed. This applies whether disclosure would be a criminal offence, subject to regulatory or civil law enforcement, including public law challenge.

This exemption will include prohibitions both:

* In primary legislation (i.e. Acts of Parliament). For example section 21 of the Local Government Finance Act 1992. The section makes it an offence to disclose or use certain information gathered by HM Revenues and Customs other than for the purpose of valuing property.

In any sort of secondary legislation made on a statutory basis (e.g. orders, rules, regulations or codes) – for example, part 31.22 of the Civil Procedure Rules, which covers the use of documents disclosed in civil proceedings.