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|  | **Our Reference:** 653-16 FOI 108865 |   | December 2016 |

**Freedom of Information Request**

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

***I would like to submit a Freedom of Information request for the following information please:***

***The number of prosecutions in England in the years 2011, 2012, 2015 and 2016 to date for offences relating to "failing to attend school"; this should include (separately) the offence of failure to secure regular attendance at school (Education Act 1996) and the offence of knowing that a child is failing to attend school regularly and fails without reasonable justification to cause him or her to attend school (Education Act 1996) as well as any other offence that would fall under this category.***

***The numbers of men and women prosecuted for these offences in each of the above years.***

***In relation to the above offences, how many people were found guilty, in each year and a breakdown by men and women.***

***A breakdown of the penalties incurred (again by men and women and the total) including the numbers who were jailed (and the length of sentence) and fined (including the sum imposed).***

***A breakdown of other offences under Education Acts and the numbers of people prosecuted for these offences (and again figures for men and women) in 2011, 2012, 2015 and 2016 to date.***

***The numbers found guilty of each of these other offences and the penalties incurred.***

***Any other details relating to these areas (such as average length of custodial sentence in each year and the average financial penalty imposed in each year).***

***I have included a sample spreadsheet giving details of the above information for 2013 and 2014. Please could the information provided to me be given in the same format.***

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 most of this information is provided to you in the attached tables.

I would advise caution with some of the average custodial sentence lengths, as, where fewer than five examples are available, this is not a meaningful average from a statistical point of view.

With regard to the information you have requested for 2016, please note we are not obliged to provide information if there are prohibitions on disclosure ‘by or under any enactment’ (Section 44(1)(a) of the FOIA).  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 the Criminal Justice Statistics data held in its final form which we routinely publish. It is intended for publication in May 2017. 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 court proceedings and sentencing for offences under Educations Acts, including for ‘truancy’ offences separately, for 2016, 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.

Additionally, we are not obliged to provide information that is intended for future publication under the terms of section 22 of the FOIA.  Data for 2016 is due to be published in May 2017.

Please note that whilst quarterly court proceedings and convictions headline data are published and are currently available up to end June 2016, these data are subject to revision as later quarters are published, and are finalised only when the annual publication is made publicly available. To ensure consistency of data released to users, further breakdowns (in this case by specific offences under certain legislation) of 2016 Quarters 1 & 2 (January to June) data are not available until the annual criminal statistics publication is published.

In line with the terms of this exemption in the FOIA, we have also considered whether it would be in the public interest for us to provide you with the information ahead of publication, despite the exemption being applicable.

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

**Public interest considerations favouring disclosure**

* Disclosure would improve transparency in the operations of Government, and of the justice system in particular.

**Public interest considerations favouring withholding the information**

* It is in the public interest to adhere to the existing publication process for official statistics, which includes time for the data to be collated and properly verified.
* It is in the public interest to ensure that data used in the compilation of official statistics comply with the Code of Practice for Official Statistics and that resulting outputs are produced to the highest quality. Statistics of high quality are produced to sound methods, with all users having easy and equal access that is fair and open, and are managed impartially and objectively in the public interest. Premature publication could undermine the principle of making the information available to all at the same time through the official publication process.

We reached the view that, on balance, the public interest is better served by withholding this information under section 22 of the FOIA at this time.