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| Ministry of Justice | October 2017 |

**Freedom of Information Act (FOIA) Request – 171009011**

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

**I am sending this request under the Freedom of Information Act.**

**1) Please state the number of persons convicted of intercourse with an animal under section 69 of the Sexual Offences Act 2003. Please provide a breakdown of the number of persons convicted by whether they were male or female for each year.**

**Please provide a breakdown of the number of persons convicted by whether they were convicted at magistrates’ court or crown court for each year. Please provide information for each of the following financial years: i) 2012/13 ii) 2013/14 iii) 2014/15 iv) 2015/16 v) 2016/17 vi) 2017/18 to 01/10/17**

**2) Please state the number of persons convicted of sexual penetration of a corpse under section 70 of the Sexual Offences Act 2003. Please provide a breakdown of the number of persons convicted by whether they were male or female for each year. Please provide a breakdown of the number of persons convicted by whether they were convicted at magistrates’ court or crown court for each year.**

**Please provide information for each of the following financial years: i) 2012/13 ii) 2013/14 iii) 2014/15 iv) 2015/16 v) 2016/17 vi) 2017/18 to 01/10/17**

**3) Please state the number of persons convicted of sexual activity in a public lavatory contrary to section 71 of the Sexual Offences Act 2003. Please provide a breakdown of the number of persons convicted by whether they were male or female for each year. Please provide a breakdown of the number of persons convicted by whether they were convicted at magistrates’ court or crown court for each year**

**Please provide information for each of the following financial years: i) 2012/13 ii) 2013/14 iii) 2014/15 iv) 2015/16 v) 2016/17 vi) 2017/18 to 01/10/17**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds the information that you have requested and I have provided it some of it in the attached table.

The table shows offenders found guilty at all courts for selected offences under the Sexual Offences Act 2003, by sex and court type, England and Wales, 2012/13 to 2016/17.[[1]](#footnote-1)

Information which covers 2017 is exempt from disclosure under section 44(1)(a) of the FOIA, which refers to prohibitions on disclosure ‘by or under any enactment’ 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 on 17 May 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 court proceedings and sentencing for offences involving indecent images of children, for 2017, 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.

Section 44 is an absolute exemption and does not require a public interest test.

The information for 2017 is also exempt from disclosure under section 22(1) of the FOIA, because it is intended for future publication. Please note that whilst quarterly court proceedings and convictions headline data are published and are currently available up to end March 2017, 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 2017 quarter 1 (January to March) data are not available until the annual criminal statistics publication is published on 17 May 2018.

This is a qualified exemption which means that the decision to disclose the information is subject to the public interest test. 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.

1. Includes data covering the period April 2016 – December 2016 Inc. (latest currently available) [↑](#footnote-ref-1)