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| MoJ_BLK_SML | |  |  |
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|  | **Our Reference:** 107727 |  | October 2016 |
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**Freedom of Information Request**

You requested the following information from the Ministry of Justice (MOJ):

1. **Details of the instructions given to caseworkers since the start of 2016 as to granting or refusing funding applications;**
2. **Statistics as to the numbers or percentages of the total applications refused for funding in 2013, 2014, 2015, and 2016 to-date.**

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

I can confirm that the Legal Aid Agency does not hold the information you requested at point 1. For the avoidance of doubt the Legal Aid Agency does not issue instructions to caseworkers. Casework decisions are taken by individual caseworkers in compliance with the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). The Lord Chancellors Guidance (as provided under s.4 LASPO) and other published guidance is produced to assist caseworkers in compliance.

Outside of the scope of our obligations under the FOIA you may be interested to note details of any legislative/regulatory changes to the parameters in which casework decisions are made, are published in the Director of Legal Aid Casework Report Annual Report available at our website: [www.gov.uk](http://www.gov.uk)

I can confirm that the department holds information that you have asked for at point 2. The information 2013 – June 2016 is exempt under section 21 of the FOI Act because it is reasonably accessible to you, and I am pleased to inform you that you in the published Legal Aid Statistics England and Wales Quarterly Tables. You can access it via the following link:

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/556139/legal-aid-statistics-apr-to-jun-2016-tables.xlsx>

The Total number of applications received and number of applications granted is shown as below:

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| Magistrates Court Legal Aid | Table 3.1 |
| Crown Court Legal Aid | Table 3.2 |
| Civil Legal Aid | Table 6.1 |

From the figures provided you can work out the volume of refused applications.

In the years you require.

Section 21 (1) of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

I can also confirm that the department holds the requested data from 1st July 2016 to present, however it is exempt from disclosure because it is intended for future publication.

We are not obliged to provide information that is intended for future publication

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**

* There are public interest arguments in favour of disclosure of this information at the present time. Disclosure would for example improve transparency in the operations of Government, and of the justice system in particular.

**Public interest considerations favouring withholding the information**

* There are public interest arguments against disclosure of this information at the present time. These arguments include that 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 also in the public interest to ensure that the publication of official information is a properly planned and managed process, to ensure that the data are accurate once they are placed into the public domain. It is also in the public interest to ensure that the information is available to all members of the public at the same time, and 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 Act at this time.

Additionally, we are not obliged to provide information if there are prohibitions on disclosure ‘by or under any enactment’ (Section 44(1)(a) of the Act).  In this case, the 2015 information you are seeking is prohibited by the Statistics and Registration Services Act 2007 and the Pre-release Access to Official Statistics Order 2008.

The information for quarter 3, 2016 to present you have requested is a subset of the Legal Aid Statistics data which we routinely publish.  It is intended for publication in the quarterly Legal Aid Statistics bulletin due to be published in December 2016.  As such we are required to consider your request in a manner compliant with the Pre-release Access to Official Statistics Order 2008 and further to Sections 11 and 13 of the Statistics and Registration Service (SRS) Act 2007.

I should explain further that the MoJ is obliged under Protocol 2 of the SRS Act 2007 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 Legal Aid Fund spend on Immigration cases. Therefore, to now disclose as part of your FOI request, the information Legal Aid Fund spend on Immigration cases contained within the December 2016 publication, will violate the provisions of the provisions of Section 11 of the SRS Act and as such engages the exemption under Section 44(1)(a).

You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/contents> and further guidance <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>