|  |  |  |  |
| --- | --- | --- | --- |
| MoJ_BLK_SML | |  |  |
|  |  |  |
|  | **Our Reference:** 635-16 FOI 108705 |  | November 2016 |

**Freedom of Information Request**

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

**Under the FOI Act. could you please provide details of the number of cautions given to people who committed indictable only offences for  2015 and 2016 (to date).**

And

**Under the FOI Act could you provided me with a list of cautions given to juveniles aged 10 and 11 for the years 2014, 2015 and 2016 (to date) broken down by individual indictable offences**

I can confirm that the department holds the information that you have asked for. However, the information that is held 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 can access it via the following links.

The number of offenders cautioned, in England and Wales, from 2014 to 2015 (and, indeed, back to 2005), can be found in the Criminal Justice Statistics Outcomes by Offence section in the latest annual Criminal Justice Statistics publication. For those who were cautioned for indictable only offences, select ‘indictable only’ from the offence type drop down box.

In order to find information on juveniles aged 10 to 11 cautioned for indictable only and triable either way offences, please select ‘10-11’ from the Age Range dropdown. The Indictable/Summary and Offence Type dropdowns can in turn be used to select the offence types required. Individual offences can be found in the ‘offence group classifications’ directory, which also indicates whether an offence is indictable only or triable either way.

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2015>

Section 21 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.

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.

It may be helpful to explain further that 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 out of court disposals, including cautions, 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 on the MoJ website in May 2017.

Please note that whilst quarterly court proceedings and convictions headline data are published on the MoJ website 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 outcomes) of 2016 Quarters 1 and 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 for example 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 also 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.