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|  | **Our Reference:** FOI 109246 |   | January 2017 |

**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 in relation to prosecutions brought in the criminal courts under the Health and Safety at Work etc. Act 1974 and the Corporate Manslaughter Act 1974. Please could you assist me with answers relating to the following questions:**

1. **List the top 20 highest fines issued for cases under the Health and Safety at Work etc. Act 1974 (or regulations enabled by the Act) for the 2016, 2015 and 2014 including the Defendant name;**
2. **Provide the number of cases brought under the Health and Safety at Work etc. Act 1974 (or regulations enabled by the Act) in 2016, 2015 and 2014;**
3. **Provide the number of cases brought under the Corporate Manslaughter Act 2007 in 2016, 2015 and 2014;**
4. **Provide the number of cases brought against individuals in 2016, 2015 and 2014 under s.37 Health and Safety at Work etc Act 1974;**
5. **Provide the number of cases brought against individuals in 2016, 2015 and 2014 under s.7 Health and Safety at Work etc Act 1974;**

**Your help would be very much appreciated at the earliest opportunity.**

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; however, some of the data held is exempt from disclosure, as detailed in the relevant paragraphs below.

It may help if I explain that we are not obliged to provide information contained in a court record. In this case, some of the information you are seeking is contained in the court records in England and Wales and is exempt from disclosure under Section 32.

Section 32 exempts information contained in those litigation documents and court, tribunal and inquiry records to which it applies. It exempts information held by a public authority if it is held solely by virtue of its being contained in those categories of document. Specifically related to this enquiry, please be aware that we are not obliged to provide information contained in a court record, such as the name of a defendant in a case. That specific information would be held in court records.

Questions 2, 3 and 4 can be answered by reference to the most recent Criminal Justice Statistics publication, linked below, and is therefore exempt from disclosure under Section 21 of the FoI Act and as it is reasonably accessible to you, and can be accessed via the below links.

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

Select the Criminal Justice statistics outcomes by offence data tool. To answer question 3, select from the offence drop down list, **4.10 Applicable organisation causing death by gross breach of duty of care.** To answer question 2, separately, select **85 Health and Safety at Work etc. Act 1974** from the same drop down list. To answer question 4, select from the drop down list relating to ‘sex’, male, female and ‘not known’ in one go, and this will provide data for individuals.

Question 4 requests the number of cases brought against individuals under Section 37 of the Health and Safety at Work etc Act 1974. There are no specific offences in this section of the Act, which provides a definition of offences by bodies corporate and hence it has been interpreted as a request for the number of cases brought against individuals under all sections of the Act.

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.

You can find out more about Section 21 by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of this letter.

Please see attached tables, as detailed below:-

Table 1, which answers question 1, provides the top 20 fines issued for offences under the Health and Safety at Work etc Act 1974, in England and Wales, in 2014 and 2015.

Table 2, which answers question 5, provides the number of persons proceeded against at magistrates’ courts for offences under Section 7 of the Health and Safety at Work etc Act 1974, in England and Wales, from 2014 to 2015

In addition to the figures published under **85 Health and Safety at Work etc. Act 1974**,there was one further prosecution in 2015 brought against a defendant from the ‘other’ category, which comprises companies, public bodies and other non-person defendants. This was for a summary offence under the Act that is not published separately.

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 court proceedings for health and safety offences 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 offence 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.