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| Ministry of Justice | March 2017 |

**Freedom of Information Act (FOIA) Request –** 110201

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

**I would like to know the number of offences recorded for each of s.69 ('Intercourse with an Animal') and s.70 ('Sexual Penetration of a Corpse') Sexual Offence Act 2003 offences have been recorded since the 2003 Act came into force.**

**I would also be grateful for any available information regarding the number of defendants proceeded against for these offences and the conviction rates, again with separate figures for the two offences.**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds some of the information that you have requested.

The number of defendants proceeded against at magistrates’ courts and found guilty at all courts (with conviction ratio) of intercourse with an animal and sexual penetration of a corpse, in England and Wales, from 2004 to 2015 are in the attached table. Please note the conviction ratio can exceed 100% as an offender can be found guilty of an offence which is not the one for which they were recorded as being proceeded against.

Information covering 2016 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 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 sexual 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.

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

The information for 2016 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 September 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 to 3 (January to September) data are not available until the annual criminal statistics publication is published in May 2017.

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.

The MoJ does not hold any information in the scope of your request with regard to recorded offence. This is because we are not the appropriate authority to contact on this subject. Recorded crime statistics are held by the Home Office, whose team of statisticians can be contact via the below address:-

crimestats@homeoffice.gsi.gov.uk