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| Ministry of Justice | April 2017 |

**Freedom of Information Act (FOIA) Request –** 111361

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

**I am writing to request for information under the Freedom of Information Act 2000. To assist you with this request I am outlining my query as specifically as possible.**

**I would be grateful if I could have the information on:**

**1) The total of defendants convicted for offences under the Computer Misuse Act 1990 in England and Wales**

**2) A breakdown of the information in 1) of whether each such defendant was charged under Section 1, 2 or 3 of the Act**

**3) Breakdown of the information in 1) by region (or by court, if this is the way the data is kept)**

**All of the above for each of the years 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 – that is, in annual datasets.**

**I would be grateful if you could give me advice and assistance under section 16 of the Act to ensure my request stays within the cost limit for the provision of free information or if I need to amend it to gain this type of information.**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds some of the information that you have requested, as detailed below.

Table 1 provides the number of offenders found guilty of offences under Section 1 of the Computer Misuse Act 1990, in England and Wales, by region, from 2010 to 2015

Table 2 provides the number of offenders found guilty of offences under Section 2 of the Computer Misuse Act 1990, in England and Wales, by region, from 2010 to 2015

Table 3 provides the number of offenders found guilty of offences under Section 3 of the Computer Misuse Act 1990, in England and Wales, by region, from 2010 to 2015

Information for calendar years 2016 & 2017 (to date) 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 18 May 2017 (2016) and 17 May 2018 (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 findings of guilty for the offences you have requested, for 2016 and 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 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 June) data are not available until the annual criminal statistics publication is published on 18 May 2017. The information for 2017 (to date) is also intended for future publication, 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.

Obviously, we cannot provide an annual dataset for 2017 while the year is in progress