

Edward Williams  
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18 September 2018

Dear Mr Williams

**Freedom of Information Act (FOIA) Request – 180823009**

Thank you for your request dated 23 August 2018 in which you asked for the following information from the Ministry of Justice (MoJ):

- 1. Provide a list of name and rank of all prison staff who have been convicted in the last 12 months of bringing drugs or phones into a prison/youth facility.**
- 2. Provide the number of people who have been disciplined in the last 12 months for having sex/romance with inmates.**

Your request has been handled under the FOIA. I have renumbered your questions for ease of reference.

I can confirm that the MoJ holds all of the information that you have requested. However, the information you requested in part 1 of your request is exempt from disclosure under section 40(2) of the FOIA, because it contains personal data – the names and ranks of the prison staff.

Personal data can only be released if to do so would not contravene any of the data protection principles set out in Article 5(1) of the General Data Protection Regulation and section 34(1) of the Data Protection Act 2018.

We believe releasing the requested information into the public domain would be unlawful. Individuals have a clear and strong expectation that their personal data will be held in confidence and not disclosed to the public under the FOIA.

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

The data which covers part 2 of your request 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 further breakdown of the data on the number of staff facing conduct and discipline action in Her Majesty's Prison and Probation Service

(HMPPS) held in its final form which we routinely publish. Information up to March 2018 will be published in November 2018 and information from April 2018 to March 2019 will be published in November 2019. 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 the number of staff facing conduct and discipline action in HMPPS 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.

### **Appeal Rights**

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

[data.access@justice.gov.uk](mailto:data.access@justice.gov.uk)

Disclosure Team, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

**Tristan McAlpine**  
**Enquiries Officer, Dissemination and Enquiries Team**  
**Prison, Probation, Reoffending and PbR Statistics**