



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

Harriet Ballance  
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data.access@justice.gsi.gov.uk

6 February 2019

Dear Ms Ballance

### **Freedom of Information Act (FOIA) Request – 190117002**

Thank you for your request dated 17 January 2019 in which you asked for the following information from the Ministry of Justice (MoJ):

**I am seeking disclosure of the number of individuals detained under Immigration Act powers only in each of the prisons and young offender institutions (YOIs) in England and Wales, listing the total number for each prison and YOI individually, at the end of: October 2018, November 2018 and December 2018.**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds all of the information that you have requested and I have provided some of it the attached table, which shows individuals detained under Immigration Act powers only in Her Majesty's Prison & Probation Service (HMPPS)-operated establishments (excluding immigration removal centres), October-December 2018, England and Wales.

However, some of the information you requested is exempt from disclosure under section 40(2) of the FOIA, because it constitutes personal data.

If a request is made for information and the total figure amounts to two people or fewer, the MoJ must consider whether this could lead to the identification of individuals and whether disclosure of this information would be in breach of our statutory obligations under the Data Protection Act 1998 (DPA). We believe that the release of some of this information would risk identification of the individuals concerned. For this reason, MoJ has chosen not to provide an exact figure where the true number falls between one and two. However, it should not be assumed that the actual figure represented falls at any particular point within this scale; 'two or fewer' is used as a replacement value from which it would be difficult to isolate or extract any individual data.

Personal data can only be released if to do so would not contravene any of the data protection principles of the Data Protection Act 1998 (DPA). The first principle states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

- (a) at least one of the conditions in Schedule 2 is met, and
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

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.

Disclosure would therefore breach the first data protection principle as it would be unlawful. We do not have to consider schedules 2 and 3.

Further information on the data protection principles is available as follows:

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/1>

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/2>

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/3>

This 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.gsi.gov.uk](mailto:data.access@justice.gsi.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

**Gary Renshaw**  
**Prison, Probation, Reoffending and PbR Statistics**