

12 May 2025

REFERENCE: FOI\25\47

Dear Sir,

Thank you for your request for information dated 24th April 2025, as detailed below.

‘We require all information, statistics kept and pertinent materials (e.g. tables; graphs; records; reports etc.) concerning:

- a)* the amount of prosecutions that have been brought under **Articles 55 to 57, 59, 132** of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 since your records began (i) at all; and/or (ii) against any individual or organisation who have sold lottery and/or ballot tickets and/or ‘bingo’ tickets (or held such a ‘lottery’);
- b)* information and statistics kept where the cases brought before the Court under this legislation (i.e. especially the above named Articles) which have resulted in (i) convictions; (ii) acquittals; (iii) a disposal which fell short of conviction (e.g. a caution; bind over; or an informed warning);
- c)* information on whether such statistics are kept by the NI Court Service and/or are accessible;’

In response to parts a) and b), Departmental datasets indicate that, up to the end of 2024, the most recent point for which information is available, there were 26 prosecutions, 18 convictions and 6 diversionary disposals for offences under Articles 55 to 57, 59, 132 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. These

wider totals include 9 prosecutions, 8 convictions and 4 diversionary disposals for offences relating to lottery tickets.

Note:

1. Figures for prosecutions and convictions relate to initial disposals at court. Appeals are not included.
2. Figures relate to cases where there was a prosecution, conviction or diversion for at least one offence under the legislation specified.
3. Figures in relation to out of court diversionary disposals only include cases dealt with from 2010 onwards.
4. Figures for prosecutions where there was no conviction are not available for years prior to 2007. Therefore, the overall figures provided for prosecutions include only cases where there was a conviction in the years prior to 2007.
5. Figures include totals for cases dealt with in 2024 which should be considered provisional.

Regarding part c) of your query, information on prosecutions, convictions and out of court diversionary disposals is available from departmental datasets, and statistics relating to these are supplied above. In addition, the NI Court Service will hold further details as part of court records relating to individual cases.

Such information constitutes criminal prosecution and conviction data of third parties as defined under Article 10 of the General Data Protection Regulation. Furthermore, the Department has determined this information is held for law enforcement purposes as defined by Part 3 of the Data Protection Act (DPA) 2018. Under Part 3 of the DPA 2018, information can only be released if the data subject (the person convicted) has provided consent for details of their conviction to be publicly released. Alternatively, a competent authority (the Department of Justice in this case) may release the information for the performance of a task necessary for law enforcement purposes.

The Department has determined that neither of these conditions have been met and therefore to release information at individual level would contravene the first data protection principle, as it would constitute processing personal information in a manner that was both unfair and unlawful. It would also contravene the second data protection

principle, as the personal information would be processed for a purpose (i.e. public release) which it was not originally collected for (law enforcement).

For these reasons, I regret to advise you that information at individual conviction level, cannot be provided in relation to the above request, as disclosure could lead to the identification of individuals. The Department considers this information to be exempt from disclosure under Section 40(2) (Personal information) of the Freedom of Information Act 2000. Furthermore, as your request relates to individuals/organisations sentenced in court, the Department also considers that such information constitutes a court record. Information contained within court records is exempt from public disclosure under section 32(1) (Court Records) of the FOIA.

Under section 32(1)(a), information is exempt if it is a document that has been filed or placed in the custody of the court for the purposes of proceedings. Under section 32(1)(c)(ii), information is exempt if it is a document created by a member of the administrative staff of a court for the purposes of proceedings in a particular case or matter.

The reason for section 32 is not to do with the issue of whether information is a public record or not; it is to preserve the courts' control over court records. Even if a court list may have been made public at the hearing, it ceases to be a public record after the hearing and then becomes protected by virtue of section 32. It was not the intention that the FOIA should provide indirect access to court records; the greater public interest was considered to lie in the preservation of the courts' own procedures for considering disclosure. Section 32 is an absolute exemption and there is no duty to consider the public interest in disclosure.

If you are unhappy with the result of your request for information you may request an internal review within two calendar months of the date of this letter. If you request an internal review please do so in writing stating the reasons to the address above.

If following an internal review you were to remain dissatisfied you may make a complaint to the Information Commissioner and ask the Commissioner to investigate whether the

DoJ has complied with the terms of the FOIA. You can write to the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

The Commissioner will not investigate a complaint unless an internal review procedure has been carried out.

Further details on the role of the Information Commissioner and the handling of appeals can be found at: www.informationcommissioner.gov.uk

If you wish to discuss this please contact the Freedom of Information Team using the contact details provided at the top of the first page. Please remember to quote your reference in any correspondence.

Yours sincerely

Freedom of Information Manager