

Our Ref: FOI2017-81

Date: July 2017

Subject: Prosecutions under the Bribery Act 2010 for years 2012 to 2017

This request asked:

How many consents to prosecute under the Bribery Act 2010 does the Director of the SFO grant each year? Please provide the data for each of the last five years, broken down by quarter with a year-end 30th June.

The Director of the SFO must give personal consent to prosecutions under the Bribery Act 2010. SFO central records are updated at the time charges are brought. I have supplied this information in the table below, with the exception of any charges related to cases where legal reasons prevent us from disclosing the information. Such information is exempt under section 44(1) (a) and (c) of FOIA which relates to orders of the Court. Section 44 is an absolute exemption which means that we are not obliged to consider the public interest in releasing such data.

		Charges under the Bribery Act
2012/2013	Q1	0
	Q2	0
	Q3	0
	Q4	0
2013/2014	Q1	3
	Q2	0
	Q3	0
	Q4	0
2014/2015	Q1	0
	Q2	2
	Q3	2
	Q4	0
2015/2016	Q1	0
	Q2	2

	Q3	0
	Q4	0
2016/2017	Q1	1
	Q2	0
	Q3	3
	Q4	0

The Bribery Act came into force in July 2011 and is not retrospective. Due to the length and complex nature of SFO investigations, in particular, a number of other cases will have had charges brought under the previous legislation (Prevention of Corruption Act 1906). This legislation requires the consent of the Attorney General before a prosecution can proceed.

It is also possible that Director may have consented to Bribery Act prosecutions which were ultimately not brought or are yet to be brought. This information is not recorded centrally and to determine if, or on how many occasions, this occurred would exceed the appropriate cost limit for complying with FOIA which has been set at £600.

Section 12 of the FOI provides that a public authority does not have to comply with a request for information if complying would exceed the appropriate cost limit. A flat rate of £25 per person, per hour, is given for determining whether information is held, finding and retrieving records and extracting the requested information. This means the appropriate limit of £600 will be exceeded if more than 24 hours are required to complete the work.

The number and size of active SFO cases during the last five years means that 24 hours would allow insufficient time to be spent on each case to determine whether the Director gave consent, or any additional consent, to prosecute under the Bribery Act. We consider this to be an unachievable task, given that case files contain a large amount of information and because files for older SFO cases will have to be retrieved before they can be searched for relevant information.

Please note that even if we were able to gather this additional information, we consider that it would also engage the exemption found at section 31 of the FOIA. Section 31 protects information which, if released, would be likely to prejudice law enforcement work.

The SFO does not provide a running commentary on the progress of live investigations. This is to avoid prejudicing the rights of potential defendants to fair trial, and to avoid giving suspects the opportunity to conceal their activities and evidence of wrongdoing, interfere with potential witnesses and/or take steps to conceal assets potentially liable to confiscation. In particular, disclosure of information about consent to prosecute in advance of the charges actually being brought may encourage suspects to take steps to evade arrest, thereby prejudicing the interests protected by section 31 of the FOIA.