

OFFICIAL

Our Ref: IM-FOI-2022-1589
Date: 1st September 2022



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

Tackling domestic abuse is a priority for Police Scotland and we are committed to working with our partners to reduce the harm it causes and ultimately eradicate it.

Domestic abuse is a despicable and debilitating crime which affects all of our communities and has no respect for ability, age, ethnicity, gender, race, religion or sexual orientation.

Police Scotland will not tolerate it.

Police Scotland will proactively target perpetrators and support victims to prevent domestic abuse from damaging the lives of victims and their families.

Police Scotland defines domestic abuse as:

“Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse may be committed in the home or elsewhere including online”

This definition is included in the Joint Protocol between Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS), “*In partnership challenging domestic abuse*” which is a public document that can be found at the Police Scotland website on <https://www.scotland.police.uk/> or on the COPFS website on <http://www.copfs.gov.uk/>.

For ease of reference, your request is replicated below together with the response.

We request information about any reports to and /or investigations by Police Scotland and any subsequent proceedings in Scottish courts or tribunals since March 2011 involving any of the following legislation:

- 1. Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011;**
- 2. Anti-social Behaviour, Crime and Policing Act 2014, section 122; or**
- 3. Children’s Hearings (Scotland) Act 2011, section 62(5)(n), (o) or (p), or section 67(2)(q)**

We seek information about the number and incidence of proceedings/cases involving the above-named legislation, as well as the content of any such

OFFICIAL

OFFICIAL

proceedings/cases, including the case name, citation and any digital link to the proceedings/case. This includes, but is not limited to, information contained in the interim Vulnerable Persons Database(iVPD) and those with a Scottish Government Justice Department (SGJD) crime code.

In relation to the statistics you have requested in points 1 and 2, please find them in the attached spreadsheet.

I would draw your particular attention to the caveat noted for iVPD marker information which I have included below for emphasis but which essentially means that due to automated weeding within iVPD, the statistics provided should not be considered to be comparable across years or to be a complete dataset.

“Police Scotland does not retain any information for statistical purposes once a record has been weeded from iVPD. When a record is weeded, it is removed from the system, and there is no retention of data outside the weeding and retention policy. Please note, the weeding and retention policy states that if a person is recorded as “no concern / not applicable” then this will only be retained for 6 months.”

In regards to crime statistics, these have been provided for the full period of your request.

In regards to statistics from our Interim Vulnerable Persons Database, this was only introduced in April 2014 and so for the period prior to this in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

In relation to the additional information you have requested such as the content of cases and case names I must advise that In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with this information

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested.

The exemption that I consider to be applicable to the information requested by you is section 38(1)(b) - Personal Data.

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’

OFFICIAL

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

'Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject'

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met.

The only potentially applicable condition is set out at Article 6(1)(f) which states:

'Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child'

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject.

On that basis, it is my view that disclosure of the information sought would be unlawful.

In relation to your request for copies of citations or of digital links to cases I must advise that Police Scotland do not hold this information. As such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

The information may be held by the Crown Office and Procurator Fiscal Service (COPFS) and you may wish to make a request to COPFS directly using the following email address: foi@copfs.gov.uk

In regards to point 3 of your request, on review we do not believe that this legislation refers to offences Police Scotland investigate and rather are instances where a court considers that a section 67 ground (other than the ground mentioned in section 67(2)(j)) might apply in relation to a child. In regards to point 3 of your request I must advise that in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

You may wish to make a request to COPFS or the Scottish Children's Reporter Administration (SCRA) directly using the following email addresses:

COPFS - foi@copfs.gov.uk

SCRA - inforequest@scra.gov.uk

As we do not hold the information for point 3, the other questions asked in this regard are not applicable.

Should you require any further assistance please contact Information Management quoting the reference number given.

OFFICIAL

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.