| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1755  Responded to: 25th July 2023 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

**Note: Although I refer to "sex", your data recording systems may have the data field labelled "gender". Where this is the case, please interpret the following questions accordingly.**

**1. What explanatory guidance has been provided to your police force on how you should record the sex of suspects? Please provide a copy of the guidance.**

**2. What explanatory guidance has been provided to your police force on how you should record the protected characteristic "gender reassignment" in respect of suspects? Please provide a copy of the guidance.**

**3. If a male-born suspect has obtained a Gender Recognition Certificate signifying that this individual has obtained legal recognition of an acquired female gender, will the entry in the "sex" data field of the crime and incident report be recorded as male or as female?**

**4. If a male-born suspect self-identifies as a woman/female but has NOT obtained a Gender Recognition Certificate, will the entry in the "sex" data field of the crime and incident report be recorded as male or as female?**

**5. If a male-born suspect identifies as nonbinary, how will the "sex" data field of the crime and incident report be completed?**

**6. If a suspect identifies as a different gender to the sex observed at birth and has obtained a Gender Recognition Certificate, is this recorded separately by your force in crime and incident reporting?**

**7. If a suspect identifies as a different gender to the sex observed at birth but has NOT obtained a Gender Recognition Certificate, is this recorded separately by your force in crime and incident reporting?**

**8. If a male-born suspect has obtained a Gender Recognition Certificate signifying that this individual has obtained legal recognition of an acquired female gender and is arrested on suspicion of/charged with rape, will the entry in the "sex" data field of the crime and incident report be recorded as male or as female?**

**9. If a male-born suspect self-identifies as a woman/female but has NOT obtained a Gender Recognition Certificate and is arrested on suspicion of/charged with rape, will the entry in the "sex" data field of the crime and incident report be recorded as male or as female?**

As you may be aware, the Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only.

There is no overarching Police Scotland policy/ guidance document etc that covers the scenarios raised in your request and section 17 of the Act therefore applies.

The information sought is *not held* by Police Scotland.

I can however advise you that the sex/ gender identification of individuals who come into contact with the police will be based on how they present or how they self-declare, which is consistent with the values of the organisation.

Police Scotland requires no evidence or certification as proof of biological sex or gender identity other than a person's self-declaration, unless it is pertinent to any investigation with which they are linked as a victim, witness or accused and it is evidentially critical that we legally require this proof, or there is reason for further enquiry based on risk.

We would look for the most sensitive way to acquire this information.

However, Police Scotland still uses a number of legacy IT systems and we are therefore limited in our ability to record gender as anything other than the binary option of male or female.

We recognise that a person may not feel it appropriate for them to be assigned binary options and the situation will be reviewed as we roll out any new IT platforms.

If you require any further assistance please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](mailto:foi@scotland.police.uk) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.