

Our Ref: IM-FOI-2022-2692  
Date: 19<sup>th</sup> January 2023



## **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.

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

**Please provide the total amount paid in out-of-court settlements by Police Scotland in each of the past two years. If this is estimated to cost too much, please provide the data for the last year and to-date this year.**

**Please include the number of settlements, a description of the reason, and the area in which the person resided i.e. Dundee, Tayside.**

**Please also include, if possible, the total amount spent on legal fees relating to the cases.**

**Please also include the highest amount paid and what this was for.**

**Can you also include a specific total for the amount paid out in discrimination claims from employment tribunal in the years specified? Please also classify these i.e. sexual, age, disability (including type of disability).**

**Lastly, please provide (for the same years specified) the total paid in both out-of-court settlements and those paid as a result of a judicial decision.**

Following a clarification request as your request was going to exceed the cost exemption under the Act, you advised that figures for a 6 month period was acceptable.

**Please provide the total amount paid in out-of-court settlements by Police Scotland in the 6 months to date.**

Please find the requested figure below for the period 1<sup>st</sup> June 2022 to 30<sup>th</sup> November 2022. In all answers for this request, the figures provided reflect payments made during the period requested. It does not necessarily follow that those payments were the full and final settlement of the claim which could have happened at a later date.

I would also advise that as you have asked for amounts "paid", instances where money was recovered or received by Police Scotland has not been included and so have been disregarded in any calculations made.

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In regards to your first question, I have taken this part of your request to include the amount paid out in claims only, I have not included legal expenses or third party legal expenses as I note these are requested separately below. The below figure therefore relates to public liability claims, employers' liability claims and motor liability claims.

Additionally, I would ask you to note that our motor liability claims in the East and North of Scotland are dealt with by a third party. They are unable to confirm which cases were settled out of court rather than as a result of judicial proceedings and so they have been included separately below.

Out of court payments – £1,546,183.76

East & North Motor Liability payments (out of court and judicial) – £99,960.71

**Please include the number of settlements, a description of the reason, and the area in which the person resided i.e. Dundee, Tayside.**

Please note that each question from this point on has been interpreted as a follow-on from your initial question and therefore relates to out-of-court settlements only.

Please find the number of settlements and a description of each in the tables below. I have split these into the types of claim which they relate to.

### Public Liability

| Reason                   | Number    |
|--------------------------|-----------|
| Complaint against police | 1         |
| Loss of property         | 2         |
| Personal Injury          | 6         |
| Property Damage          | 10        |
| Wrongful arrest          | 2         |
| Wrongful seizure         | 2         |
| <b>Grand Total</b>       | <b>23</b> |

### Employers' Liability

| Description                          | Number    |
|--------------------------------------|-----------|
| Anxiety                              | 1         |
| Back pain                            | 1         |
| Constructive Unfair Dismissal        | 1         |
| Employer's Liability Personal Injury | 4         |
| Hearing standard                     | 1         |
| Injury to feelings                   | 1         |
| Race, sex and disability             | 1         |
| Raynaud's and Erythromelalgia        | 1         |
| Sex and Disability Discrimination    | 1         |
| <b>Grand Total</b>                   | <b>12</b> |

**Motor Liability**

| <b>Description</b>     | <b>Number</b> |
|------------------------|---------------|
| Road Traffic Accident  | 120           |
| Road Traffic Collision | 1             |
| <b>Grand Total</b>     | <b>121</b>    |

Please find a breakdown of location below for public liability and employers' liability claims. Due to the relatively small data pool involved and risk that individuals could be identified, I have not split these into type of claim.

| <b>Location</b>    | <b>Number</b> |
|--------------------|---------------|
| Aberdeen           | 4             |
| Ayrshire           | 2             |
| Bellshill          | 1             |
| Edinburgh          | 2             |
| Erskine            | 1             |
| Glasgow            | 6             |
| Glenrothes         | 2             |
| Haddington         | 1             |
| Inverness          | 1             |
| Leeds              | 1             |
| Livingston         | 1             |
| Milngavie          | 1             |
| Newarthill         | 1             |
| Paisley            | 1             |
| Perth              | 1             |
| Prestwick          | 1             |
| Saltcoats          | 1             |
| Sanquhar           | 1             |
| Selkirk            | 1             |
| Tayside            | 2             |
| Unknown            | 1             |
| <b>Grand Total</b> | <b>33</b>     |

In regards to motor liability claims, our system records the location the accident occurred rather than the address the claimant resides. 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.

**Please also include, if possible, the total amount spent on legal fees relating to the cases.**

I can confirm the amount spent on our legal fees and third party legal fees for public liability, employers liability and West motor liability claims is as follows:

£214,377.61

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As explained previously, motor liability claims in the East and North of Scotland are dealt with by a third party. They are unable to confirm which cases were settled out of court rather than as a result of judicial proceedings and so they have been included separately below. The amount spent on all legal fees and third party legal fees whether relating to out of court or not is as follows:

£55,688.46

**Please also include the highest amount paid and what this was for.**

I have interpreted this part of your request to be the instance where the highest total amount was paid by Police Scotland. This will include the amount of claim, third party legal costs and our legal costs combined.

£1,390,807.58 - Employer's Liability Personal Injury

**Can you also include a specific total for the amount paid out in discrimination claims from employment tribunal in the years specified? Please also classify these i.e. sexual, age, disability (including type of disability).**

I have interpreted this part of your request to be the instance where the highest total amount was paid by Police Scotland. This will include the amount of claim, third party legal costs and our legal costs combined.

Total amount - £12,080.00

In regards to classifications of claim I can confirm that the following apply. I would advise that more than one classification can apply to a claim: Age discrimination, sex discrimination, disability discrimination and maternity discrimination.

In regards to the type of disability, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the details requested

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

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online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person'

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.

In this case the limited data pool involved along with the limited timescale and other information provided within this request would make identification of an individual possible if further information in regards to disability type was to be released.

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

**Lastly, please provide (for the same period specified) the total paid in both out-of-court settlements and those paid as a result of a judicial decision.**

I have interpreted this question as a combined figure for both out of court settlements and those paid as a result of a judicial decision. This will include the amount of claim, third party legal costs and our legal costs combined. The requested amount is as follows:

£2,046,833.32

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

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](mailto:foi@scotland.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

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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](mailto: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.