

Our Ref: IM-FOI-2022-1947
Date: 30th 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.

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

The information requested relates to police interactions with rough sleepers within Edinburgh during the Royal mourning period following the death of Queen Elizabeth II which runs from 8th September 2022 - 26th September 2022.

- 1. The number of people charged under the Vagrancy Act 1824 during the Royal Mourning Period.**
- 2. The number of people arrested under the Vagrancy Act 1824 during the Royal Mourning Period.**
- 3. The number of people cautioned under the Vagrancy Act 1824 during the Royal Mourning Period.**

In response to these questions, I must advise you that the Vagrancy Act 1824 applies only to England and Wales and is not applicable in Scotland.

As such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information you seek is not held by Police Scotland.

Notwithstanding, it should be noted that Police Scotland do not hold statistics on 'arrests' in general. Police in Scotland have the power to arrest an individual where there is sufficient evidence to support a charge against them - either for a common law offence or for a statutory offence where the statute empowers the police to arrest any person contravening its provisions.

There is however no mandatory recording process in relation to arrests as not all offenders are routinely arrested when they commit offences and some may be subject of a report to the Procurator Fiscal without ever having been arrested.

In relation to cautions, a caution in Scotland has a different meaning to that in England and Wales. In England and Wales, the term relates to a formal police warning.

In Scotland a caution is common law, used when interviewing a suspect, taking a statement from someone who may end up being an accused person, or when charging someone. The caution is simply informing that person of their rights.

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- 4. The number of reported interactions Police Officers (or staff) of any rank made with rough sleepers which took place during the official mourning period which resulted in no charge, arrest or caution.**
- 5. The number of occasions in which officers asked rough sleepers to move on from the location at which they were first spoken to. Any details regarding the locations people were first spoken to and where they were asked to move to will be necessary.**

Having considered this part of your request, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, where police officers have had cause to interact with an individual as a crime has occurred, whether the individual is the accused or the victim, the crime would be recorded on Police Scotland's crime recording systems.

The crime recording systems used by Police Scotland however, have no facility whereby details of the accused and victim, such as whether they are a 'rough sleeper', can be easily extracted and there are no markers available which allow for the automatic retrieval of this level of information.

As such, case by case assessment of all crimes which occurred between the 8th September 2022 and 26th September 2022 would have to be carried out to determine the details of the accused/ complainer – an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

In relation to police interactions where no crime has occurred, police have spoken to an individual, police have asked an individual to 'move on' etc. any such incident would be recorded in the police officer's notebook only, *if recorded*. As such, all police officers notebooks for the time period requested, would have to be individually examined. Again, this is an exercise which would far exceed the £600 cost limit.

Should you require any further assistance please contact Information Management Dundee, 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 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 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.

