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Our Ref: IM-FOI-2022-0708
Date: 31st March 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.

1) a copy of the Constabulary's policy or procedure for the verification of the legitimate possession and use of prescribed medical cannabis/cannabis-based prescription medicine (CBPM);

4) a copy of any internal briefing documents provided to police officers regarding the existence of - and the process for the verification of - prescribed medical cannabis flower or other CBPM's following the Home Office Circular 2018: 'Rescheduling of cannabis-based products for medicinal use in humans' and The Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018 which allowed the prescribing of medical cannabis (CBPM);

In regards to questions 1 and 4, Police Scotland does not have a specific policy relating to the legitimate possession of legally prescribed medicinal cannabis. A briefing has however been circulated nationally for the attention of all officers to raise awareness on existing legislation and provide guidance to any officer who may encounter the drug. Please see the attached file for a copy of this briefing.

I must advise that it has been necessary to withhold some of the information requested, therefore, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought.

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 you have requested and the exemption that I consider to be applicable is set out at:

Section 30(c) - Prejudice to the Effective Conduct of Public Affairs
Section 38(1)(b) – Personal Information

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Section 30 (c) - Prejudice to the Effective Conduct of Public Affairs.

Where necessary some internal names / telephone numbers and email addresses have been redacted. To release these details publicly through FOI legislation could negatively impact on the operational effectiveness of various departments and external partner agencies. While it is acknowledged that the disclosure of this information would support transparency and better inform the public as to how the Service conducts its business, there are already established routes for the public to make contact with the police and the disclosure of these additional details would not support the effective conduct of public affairs. As a result, section 30(c) of the Freedom of Information (Scotland) Act 2002 is engaged.

In this case, an internal email address has been redacted.

Section 38(1)(b) – Personal Information

Any information that could lead to the identification of individuals has been redacted. This is in accordance with Section 38(1)(b) of the Freedom of Information (Scotland) Act 2002 – Personal Information. In this case this relates to the name of an individual.

As such, the processing would be unfair and unlawful in respect of the individuals concerned and would therefore be in breach of the first principle of the Data Protection Act 2018. This is an absolute exemption, which does not require a public interest test to be conducted.

2) if the Constabulary does not have a local policy regarding this, could you please confirm that the Home Office guidance is adhered to by the Constabulary - namely that someone claiming the legitimate possession and use of medical cannabis will be expected to produce: the original medication container complete with the pharmacy dispensing label bearing the name of the patient; with either a copy of their FP10 prescription or a letter from the prescribing clinician; and a form of recognised photo ID (such as a passport, driving licence, or a PASS accredited photocard) bearing the same name as displayed on the dispensing label and the copy of the FP10 or clinician's letter;

All Home Office guidance will be adhered to and officers requiring further information have been briefed to contact the Police Scotland Substance Harm Prevention team.

3) if your Constabulary does not have a policy relating to this, could you please provide the Constabulary's policy regarding compliance with the PSED (Public Sector Equality Duty), especially with regards to the avoidance of discrimination against disabled people for the legitimate possession and use of a prescribed medication;

Whilst we do not have a specific standalone policy in regards to the Public Sector Equality Duty, it is part of a number of other policies and Standard Operating Procedures. Please find a link to these below:

Equality, Diversity and Dignity Policy

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<https://www.scotland.police.uk/spa-media/p3dboqcw/equality-diversity-dignity-policy.pdf>

Equality, Diversity and Dignity Standard Operating Procedure

<https://www.scotland.police.uk/spa-media/3lka0za4/equality-diversity-and-dignity-sop.pdf>

5) the named lead for the Constabulary for matters pertaining to the verification of medical cannabis (CBPM);

Police Scotland has no named lead in regards to the verification of medical cannabis. 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.

To be of some assistance however, each incident would be assessed and progressed by individual officers. Should officers require assistance, they can seek advice from our Substance Harm Prevention Team.

6) the Constabulary's policy or position relating to the recognition of unaccredited card schemes such as Cancard or MedCannID, if such a policy exists.

Police Scotland is aware of medicinal cannabis cards such as Cancard and MedicannID and have liaised with the Crown Office and Procurator Fiscal Service (COPFS) since their release around their potential use and any implications they have within the Misuse of Drugs Act 1971.

Medicinal Cannabis cards, after application, can confirm that a person's GP has certified the card holder to have a medical condition which may benefit from a cannabis based product. There is also the option for a person, when applying for a medicinal cannabis card, to self-verify as having a condition which may benefit from a cannabis based product. Neither of these available options confirm that the holder of a medicinal cannabis card possesses a legal prescription for a cannabis based product.

Agreement has been reached with COPFS that Police Scotland, when detailing the circumstances of a person who has been found to be in possession of a cannabis based product, will also provide the details of any medicinal cannabis card presented by that person for the further consideration of COPFS.

Police Scotland Officers have been briefed on the introduction of medicinal cannabis cards and the above process with regards to supplying information to COPFS.

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.pnn.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.