

Our Ref: IM-FOI-2022-1219
Date: 23rd June 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.

I am requesting information on police activity related to Section 127 of the Communications Act 2003. Please can you provide a count per calendar year for your police force of:

- 1. The number of arrests**
- 2. The number of charges**
- 3. The number of suspects released on bail or without charge**

Which have been carried out under the act.

I would like this data from 2003-date, with breakdowns of offence types according to their CJS code, and ideally in .csv or Excel format.

I would also like the same figures, for the same period (that is, arrests, charges, and suspects released on bail or without charge) for 8/72 offences under the Malicious Communications Act 1988: Offence of sending letters etc. with intent to cause distress or anxiety, which have involved electronic communications. If your force does not record whether these offences involved electronic communications, please send the full data instead.

Having considered your request in terms of the above Act, 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, crimes in Scotland are recorded in accordance with the Scottish Government Justice Department offence classification codes, many of which cover more than one piece of legislation.

OFFICIAL

The offence set out at s127 of the Communications (Scotland) Act 2003 can be covered by the following offence classification codes:

- 'Communications Act 2003 (sexual)'
- 'General post office/ telecommunications offences' (which covers non-sexual content)

Whilst the first classification is specific to section 127 offences, the second includes a number of other offences set out in different legislation including the Mobile Telephones Act 2002, the Post Office Act 1953, the Postal Services Act 2000 and the Telecommunications Act 1984.

Unfortunately, it is not possible to ascertain which of the General post office/ Telecommunications offences relate to section 127 of the Communications (Scotland) Act 2003 without an individual assessment of each case.

As illustrated by our [published statistics](#), there are a vast number of reports which would require individual assessment – an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

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.

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.