

Our Ref: IM-FOI-2022-2400  
Date: 07 December 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.

- **How many arrests have been made under the Protection of Workers bill since it became legislation?**

In 2018, the Criminal Justice (Scotland) Act 2016 removed the separate concepts of arrest and detention and replaced them with a power of arrest without warrant - where there are reasonable grounds for suspecting a person has committed, or is committing, an offence.

When a person is arrested, a statement of arrest should be read over as soon as reasonably practical and details recorded in the arresting officer's notebook.

A person is 'Not Officially Accused' (a suspect) when arrested *and not* cautioned and charged. They are 'Officially Accused' once arrested *and* cautioned and charged. *If* conveyed to a police station, the arrested person (of either classification) will have their details recorded in the Police Scotland National Custody System.

The Act however also provides for certain situations whereby a person must be released from police custody *prior* to their arrival at a police station - effectively allowing the police to 'de-arrest' that person where the reasonable grounds for suspicion no longer exist. In those circumstances, the details of an arrested person are not held electronically.

As a result, we are unfortunately unable to collate comprehensive arrest data as case by case assessment of all officer notebooks would be required - in addition to the *partial* arrest data held in the National Custody System.

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.

For the reasons outlined above, Police Scotland instead, typically produce data based on recorded and detected crimes, broken down by Scottish Government Justice Department (SGJD) classification:

As such I can provide you with the following information:

**OFFICIAL**

Recorded & Detected Specified Retail Worker Offences. 12/07/2021 to 20/11/2022

	2021		2022	
	Recorded	Detected	Recorded	Detected
Serious assault of a retail worker	4	2	13	13
Common assault of a retail worker	442	253	1368	862
Threatening or abusive behaviour of a retail worker	680	344	1662	1061
Total	1126	599	3043	1936

All statistics are provisional and should be treated as management information. All data have been extracted from Police Scotland internal systems and are correct as at 21st November 2022.

- **How many arrests have been made under the bill in relation to a retail incident at a supermarket?**
- **How many arrests have been made under the bill in relation to a retail incident at an independent convenience store?**

Having considered these questions in terms of the 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.

To explain, crimes are recorded using the Scottish Government Justice Department crime classification codes rather than by a type of business such as a supermarket/shop/store etc. In order that the specific type of business is established, it would require each of the above detected offences to be manually examined. Therefore, given the amount of reports in the above table that would have to be researched this is an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

- **How many prosecutions have been made under the Protection of Workers bill since it became legislation?**
- **How many prosecutions have been made under the bill in relation to a retail incident at a supermarket?**
- **How many prosecutions have been made under the bill in relation to a retail incident at an independent convenience store?**

Police Scotland does not hold prosecution/conviction information. 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.

You may wish to contact the Crown Office and Procurator Fiscals Service (COPFS) which holds conviction information for Scotland. A request can be submitted to COPFS via email using the following address [foi@copfs.gsi.gov.uk](mailto:foi@copfs.gsi.gov.uk)

**OFFICIAL**

**OFFICIAL**

Should you require any further assistance please contact Information Management - Dundee at [foidundee@scotland.police.uk](mailto:foidundee@scotland.police.uk) 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.

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.

**OFFICIAL**