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Our Ref: IM-FOI-2022-0387  
Date: 07 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.

### **How many homophobic and transphobic hate crimes have been reported in Dundee over the last ten years? Were there any charges or fines because of the report?**

In response to your questions please see the tables below, please pay attention to the caveats at the bottom of the table.

Within the tables recorded crime and detected crime statistics have been provided. For offences identified as Hate Crimes where a crime has been detected, charges will have been brought against the perpetrator.

It is worthy of note that Police Scotland does not record the actual trans-status or sexual orientations of individuals. The crimes recorded with a transgender or sexual orientation aggravation relates to the alleged perpetrator's perception(s) about their victim. A crime may be recorded as transgender aggravated whether or not the victim actually identifies with this people group.

### **Could these possibly be split into "homophobic hate crimes" and "transphobic hate crimes"?**

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought regarding the split between offences with a Transgender and a Sexual Orientation Aggravator.

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.

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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 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 I do not accept that disclosure is necessary for that purpose.

Further, I am of the view that any interests are overridden by the interests or fundamental rights and freedoms of the data subject.

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

By way of explanation, the figures contained within one of the specific groups was low, within the small data pool of Dundee meaning that there is a risk that an individual person may be identified. However, to be of assistance the statistics below have been provided.

<b>Number of Recorded Hate Crimes with a Transgender or Sexual Orientation Aggravator: Dundee City</b>	
Calendar Year: 1st April 2014 to and inclusive of 31st December 2022	
<b>Year</b>	<b>Sexual Orientation or Transgender Aggravator</b>
2014	20
2015	21
2016	28
2017	37
2018	37

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2019	72
2020	55
2021	63
<b>Total</b>	<b>312</b>
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 04/03/2022.	
1. As there can be multiple aggravators attached to a hate crime, the total number of aggravators will not reflect the number of unique hate crimes for the above. Therefore are counted differently than our performance reporting.	
2. 2014 commences from 1st April 2014 to and inclusive of 31st December 2014.	
<i>Police Scotland does not retain any information for statistical purposes once a record has been weeded from iVPD. When a record is weeded, it is removed from the system, and there is no retention of data outside the weeding and retention policy. Please note, the weeding and retention policy states that if a person is recorded as "no concern / not applicable" then this will only be retained for 6 months.</i>	
<i>Please note that these data are collated from the Police Scotland iVPD system, which has an automated weeding and retention policy built on to it. A copy of the retention policy is available on the Police Scotland internet site.</i>	

<b>Number of Detected Hate Crimes with a Transgender or Sexual Orientation Aggravator: Dundee City</b>	
Calendar Year: 1st April 2014 to and inclusive of 31st December 2022	
Year	Sexual Orientation or Transgender Aggravator
2014	20
2015	17
2016	19
2017	27
2018	19
2019	59
2020	39
2021	42
<b>Total</b>	<b>231</b>
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 04/03/2022.	
1. As there can be multiple aggravators attached to a hate crime, the total number of aggravators will not reflect the number of unique hate crimes for the above. Therefore are counted differently than our performance reporting.	
3. 2014 commences from 1st April 2014 to and inclusive of 31st December 2014.	
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<i>Please note that these data are collated from the Police Scotland iVPD system, which has an automated weeding and retention policy built on to it. A copy of the retention policy is available on the Police Scotland internet site.</i>	

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

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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, Dalrnarnock, 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.