

Our Ref: IM-FOI-2022-2719
Date: 19 January 2023



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 (slightly reordered).

1) Does your force have an active Black Police Association or similar for black, Asian and ethnic minority (BAME) members of your workforce?

2) What is it called?

SEMPER Scotland is the primary staff association that exists to support and represent all minority ethnic employees on issues of equality in race, and to ensure that the Scottish Police Authority (SPA) and The Police Service of Scotland (Police Scotland) uphold the principles and practices of racial equality.

SEMPER Scotland is funded by the Scottish Government and is managed by an Executive Committee made up of employees from various ranks and levels within the Service, who are committed to promoting wider understanding of the needs of minority ethnic employees and their contribution to the overall success of policing in Scotland. SEMPER Scotland is a member of the National Black Police Association (UK) and the European Network Against Racism (ENAR).

More information is available via the following link:

[Staff Association | Semperscotland.org | Scotland](#)

3) How many officers, support staff and PCSOs do you have?

Please be advised that Police officer and staff numbers are publicly available.

As such, 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 that you have requested and the exemption that I consider to be applicable is set out at Section 25(1) of the Act - information otherwise accessible:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”

The information you are seeking is available on the Police Scotland website, via the following link: [Police Scotland Officer Numbers - Police Scotland](#)

4) How many of those are BAME workforce (officers, support staff and PCSOs)?

I must first of all advise you that Equality and Diversity data provided by staff is provided on a voluntary basis and the data below reflects this.

Due to some ethnic origin categories having very small numbers, they have been categorised as follows.

- **BME** - Mixed or Multiple Ethnic Group, Asian Pakistani, Asian Indian, Asian Bangladeshi, Asian Chinese, Asian Other, African, African Other, Caribbean, Black, Caribbean or Black Other, Arab and Other Ethnic Group.
- **White Minority** - White Irish, White Gypsy/Traveller, White Polish and White Other.
- **All Other White British** - White English, White Northern Irish, White Welsh and White Other British.

On that basis the following table shows the Race Profile for (All) Police Officers and Police Staff as at 31/03/2022:

Ethnic Origin	Police Officers		Police Staff	
	%	Number	%	Number
White Scottish	79.50%	13547	84%	4621
All Other White British	8.44%	1439	7%	395
White Minority	2.21%	376	1%	78
BME	1.62%	276	2%	104
Choose not to Disclose	6.86%	1169	4%	200
Not Recorded	1.37%	233	2%	86

14) What grade, pay scale or band is your most senior BAME police staff? What is their gender?

I am refusing to provide you with the information sought in terms of section 16 of the Act and I am therefore required 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.

OFFICIAL

I can confirm that the information sought is held by Police Scotland and the exemption I consider to be applicable is section 38(1)(b) of the Act - personal information.

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 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 agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

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

To be of assistance, the following table shows the Race Profile for police officers in the ranks of Sergeant and above as at 31/03/2022:

Ethnic Origin	Police Officers (Sgt and above)	
	%	Number
White Scottish	80.97%	3093
All Other White British	8.12%	310
White Minority	1.41%	54
BME	1.20%	46
Choose not to Disclose	8.17%	312
Not Recorded	<1%	5

Associated data is published on an annual basis (ensuring anonymity of staff) via the following link:

<https://www.scotland.police.uk/about-us/how-we-do-it/equality-and-diversity>

- 5) How many current Attendance Management cases do you have? (Force compared to BAME)?**
- 6) How many current Complaints do you have? (Force compared to BAME)?**
- 7) How many current Disciplinary cases do you have where regulation 21 notices have been served to attend a misconduct meeting/hearing? (Force compared to BAME)?**
- 8) How many current Employment Tribunals do you have, regardless of type of complaint? (Force compared to BAME)?**
- 9) How many current Grievances do you have, regardless of type of complaint? (Force compared to BAME)?**
- 10) How many current Incapability/capability cases do you have? (Force compared to BAME)?**
- 11) How many current Regulation procedures (Misconduct and Gross Misconduct) do you have? (Force compared to BAME)?**
- 12) How many current Unsatisfactory Performance Procedures Tribunals do you have, or equivalent? (Force compared to BAME)?**

For ease of response, questions 5 - 12 have been answered together.

Police Scotland holds data in relation to officer and staff ethnicity/ race for equality monitoring purposes only.

It is held securely in one system and cannot easily be cross referred with other systems.

Our systems for managing, for example, conduct issues and absence issues, do not record the ethnicity/ race of the parties involved.

That means that we do not currently collate or monitor any of the issues referred to above in terms of ethnicity/ race and we do not hold any data which would speak to the comparison between BAME and non-BAME officers and staff.

On that basis section 17 of the Act applies and I can confirm that the information sought is *not held* by Police Scotland.

It is our assessment that given the scope of your request, any attempt to create statistical information for the purposes of your request would be creating new data as opposed to providing access to recorded information already held.

It is also highly likely that were such an exercise attempted, excess cost provisions would be engaged before any meaningful data could be produced.

Furthermore, much of the terminology used, particularly around conduct and the various English Regulations quoted, does not translate to the Scottish processes and that further complicates your request.

To illustrate with an example (Q6), as at 21 December 2022 a total of 2,519 complaint cases were live.

13) What local plans do you have to implement the Police Race Action Plan developed by the National Police Chiefs' Council (NPCC) and the College of Policing?

I understand that the Police Race Action Plan sets out changes across policing for action in England and Wales.

Police Scotland has partnered with community interest company Black Professionals Scotland (BPS) as we bring additional focus to how we reflect, represent and serve our communities.

The collaboration will support policing in Scotland and help to connect with communities through BPS networks and events. BPS members will also contribute to Police Scotland events and provide insight into our Black communities.

Our partnership with BPS is led by Deputy Chief Constable Fiona Taylor who chairs the Police Scotland Equality, Diversity, Inclusion and Human Rights Strategic Oversight Board. The Board seeks to bring greater focus on how policing in Scotland reflects, represents and serves across all of our communities.

If you require further assistance or 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.