

Our Ref: IM-FOI-2022-1370
Date: 14th July 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.

- **The total number of complaints which were investigated under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016:**
 - in 2017
 - in 2018
 - in 2019
 - in 2020
 - in 2021
 - in 2022 so far

Please note that by total number of complaints, I have taken this to refer to recorded crimes.

In response to your request, 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, Police Scotland do not record offences under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. The Act allows crime aggravators to be added to sexual offences rather than providing specific offences in itself.

Unfortunately, at this time we do not have an automated way of retrieving the relevant aggravators you have requested. As such, a manual review of all group 2 crimes (sexual crimes) would be required to determine if the marker was present.

During the time period requested, 73,464 recorded crimes would need to be manually checked to confirm if a relevant aggravator was present. At a conservative estimate of 5

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minutes per record, this equates to 6,122 hours of work to provide the information requested.

Police Scotland have assessed that the £600 cost limit within the Act equates to 40 hours of work and so this part of your request would breach the cost threshold.

Whilst I would normally suggest a reduced timescale, in this case, even taking a single year would vastly exceed the cost threshold under the Act. If we take 2021 for example, over 1,222 hours of work would be required.

- **A breakdown by year of the number of complaints under the Act concerning the alleged disclosure of an intimate photograph or film.**

Please note that by total number of complaints, I have taken this to refer to recorded crimes.

I have also taken the term “complaints under the Act” to refer to the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 as per your first question.

In response to your request, 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, Police Scotland do not record offences under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. The Act allows crime aggravators to be added to sexual offences rather than providing specific offences in itself.

Unfortunately, at this time we do not have an automated way of retrieving the relevant aggravators you have requested. The offence you describe is most likely to be included under a number of offences such as “Threatening to disclose an intimate image” or “Disclosure of an intimate image”. As such, a manual review of all these relevant offences would be required to determine if the marker was present and if the offence matched the criteria provided.

During the time period requested, 3,479 recorded crimes would need to be manually checked to confirm if a relevant aggravator was present. At a conservative estimate of 5 minutes per record, this equates to over 289 hours of work to provide the information requested.

Police Scotland have assessed that the £600 cost limit within the Act equates to 40 hours of work and so this part of your request would breach the cost threshold.

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Whilst I would normally suggest a reduced timescale, in this case, even taking a single year would vastly exceed the cost threshold under the Act. If we take 2021 for example, over 70 hours of work would be required.

To be of some assistance however, I have included in the tables below the number of recorded offences for the two offences identified. It should be noted these will not relate specifically to the aggravator under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. I would also ask you to note the caveats provided below each table.

Crime/Offence	2017	2018	2019	2020	2021	2022*
Threatening to disclose an intimate image	111	244	270	331	353	180
Disclosure of an intimate image	137	323	389	436	494	229

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 28th June 2022.
2022 figures up to and including 31st May 2022.

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.

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.