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Our Ref: IM-FOI-2022-0022  
Date: 14<sup>th</sup> January 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.

**In follow-up to IM-FOI-2021-2345 which I have included by way of context:**

***“1. According to custody records, how many calls were made to the duty solicitor on the weekend of 7-9 June 2019?”***

***2. According to phone records, how many calls were made to the duty solicitor on the weekend of 7-9 June 2019?”***

**Can we also do one for the weekend of 10-12th December 2021 for St Leonard's.**

**You will I assume know who was duty solicitor for something so recent?**

**Just to check how long it's been allowed to go on for?**

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, the information request is not recorded in a manner that would allow it to be automatically retrieved. The subject of duty solicitors is not entirely straightforward and this leads to difficulties in retrieving the information requested. I have added some context below to provide some detail into the issues associated with your request.

If a person comes in to custody as 'Not officially accused' and are to be interviewed then the duty solicitor that would be contacted if they requested this would be The Scottish Legal Aid Board (SLAB).

**OFFICIAL**

## OFFICIAL

If a person comes into custody as Officially accused and asks for the duty solicitor they would be given the duty solicitor for the particular court in question rather than the one of the custody suite they attended. For example, is someone attended St Leonards custody suite but on a Dundee SC warrant, then the Dundee duty solicitor would be contacted.

We cannot therefore just look for calls to a particular duty solicitor (i.e. the St Leonards Duty Solicitor for the weekend in question) as numerous different solicitors may have been contacted from any one area and multiple areas may have contacted the duty solicitor covering St Leonards/Edinburgh. To generate accurate figures, a review of the whole throughput of Scotland for that particular weekend would have to be carried out.

This matter is further complicated by the fact that a search of our custody system will only return data for requests made rather than completion of calls. For example persons who ask for a duty solicitor and then changing their minds before the call is made and as such no further action is taken. Or where a person asks for a specific solicitor and then decides later that they would rather speak with the duty solicitor which would cause this to be missed in the figures.

All of this means that a manual review would be required to ensure correct figures were returned. We would also require to examine each custody in Scotland to ensure accurate statistics for how many times the duty solicitor allocated to St Leonard's was contacted on the date questioned.

In this case 478 custody records would need to be manually checked. At a conservative estimate of 10 minutes per record, this equates to over 79 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.

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

I do note from the context of your FOI requests that you may be requesting information on a specific incident you were involved in. Should this be the case, you may wish to submit a Subject Access request.

I have included a link below to our webpage which explains this process should you wish to do so:

<https://www.scotland.police.uk/access-to-information/data-protection/subject-access-requests/>

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](mailto:foi@scotland.pnn.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

## OFFICIAL

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.