

Our Ref: IM-FOI-2022-2641
Date: 20 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.

Please can I request the number of people cautioned or arrested for squatting within your local territory each year since 2012. Additionally, can I request breakdowns of demographics where available (e.g. % sex, % ethnicity).

In response to your request, I must first of all advise you that a caution in Scotland has a different meaning to that in England and Wales.

In England and Wales, the term relates to a formal police warning.

In Scotland a caution is common law, used when interviewing a suspect, taking a statement from someone who may end up being an accused person, or when charging someone.

The caution is simply informing that person of their rights.

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.

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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, I can therefore further advise you that In Scotland there is no crime classification of squatting, however we do have the offence of Trespass, lodging without consent of owner.

You find our publication statistics useful, particularly <https://www.scotland.police.uk/media/f5slniok/mmw-area-data-q-3-2019-20.xlsx> whereby this offence is listed under group 6. More recent data could be produced if this data is of interest to you.

Should you require any further assistance please contact Information Management - Dundee at foi@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 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.