

Our Ref: IM-FOI-2022-2704  
Date: 29 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.

**I would like figures for the number of road users caught "middle-lane hogging" on motorways or three-lane carriageways in your area. This is when drivers break Rule 264 of the Highway Code, which states that: "You should always drive in the left-hand lane when the road ahead is clear".**

**The official offence is "careless driving" or "driving without due care for other road users", but I would only like to request the information specifically in relation to unnecessarily driving in the middle lane of the carriageway.**

**I am interested in the following calendar years:**

- 5th June - 31st December 2013 (the offence was introduced on June 5th this year)**
- 1st January - 31st December 2014**
- 1st January - 31st December 2015**
- 1st January - 31st December 2016**
- 1st January - 31st December 2017**
- 1st January - 31st December 2018**
- 1st January - 31st December 2019**
- 1st January - 31st December 2020**
- 1st January - 31st December 2021**
- 1st January - current date 2022 (please specify current date when submitting back)**

**Broken down by each of the years above, please provide the following information for your force area:**

- 1. The total number of recorded incidents of "middle-lane hogging"**
- 2. The total number of fines handed-out for "middle-lane hogging"**
- 3. The total number of prosecutions for "middle-lane hogging"**
- 4. The total amount of money collected from fines handed-out for "middle-lane hogging"**
- 5. The single largest fine handed-out for "middle-lane hogging"**
- 6. The number of drivers sent on awareness courses for "middle-lane hogging"**
- 7. If possible within the cost limits of the FOIA, a full list of the roads/motorways where people were found to be "middle-lane hogging"**

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**\*If your force does not record data in calendar years, please provide the information in the closest yearly periods available – eg financial years.**

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, crimes in Scotland are recorded in accordance with the Scottish Government Justice Department Offence Classification Codes, and not the Highway Code.

In this instance, I'm afraid that there is no specific offence of 'lane hogging' or 'unnecessarily staying in an overtaking lane'. Such offences would be recorded under 'Careless Driving' or 'Dangerous Driving' etc. depending on the circumstances.

Statistics for all recorded and detected Careless Driving and Dangerous driving offences are publicly available on the Police Scotland website:-

[How we are performing - Police Scotland](#)

Unfortunately, the only possible way to provide you with an accurate response would be to individually examine each of these offences to establish the circumstances and determine whether they were relevant to your request - an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

I can also advise you that Police Scotland does not hold prosecution/conviction information. As such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information you seek is not held by Police Scotland.

You may wish to contact the Crown Office and Procurator Fiscals Service (COPFS) which holds conviction information for Scotland. A request can be submitted to COPFS via email using the following address [foi@copfs.gsi.gov.uk](mailto:foi@copfs.gsi.gov.uk)

And with regard to fines: Scottish Court and Tribunals Service: [foi@scotcourts.gov.uk](mailto:foi@scotcourts.gov.uk)

Should you require any further assistance please contact Information Management - Dundee at [foidundee@scotland.police.uk](mailto:foidundee@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](mailto:foi@scotland.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

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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.

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