

Our Ref: IM-FOI-2022-1172  
Date: 27 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.

***I understand that the your police force discloses information upon request to the Disclosure and Barring Service in relation to processing of enhanced criminal records certificates (“ECRCs”). In accordance with the statutory guidance, the information disclosed on an enhanced criminal records certificate “can also disclose relevant police intelligence or non-conviction information” subject to the statutory test at s.113B(4) of the Police Act 1997.***

***I request the following information and documentation:***

***(1) Please confirm whether internal disciplinary proceedings and/or rulings of the Independent Office for Police Conduct are considered “relevant police intelligence” and/or “non conviction information” for the purposes of fulfilling your obligations under s.113B(4) of the Police Act 1997;***

I would ask you note the Independent Office for Police Conduct operates in England and Wales and does not apply to policing in Scotland.

It is possible that the result of internal disciplinary proceedings could be recorded as intelligence and thereafter considered relevant and proportionate for disclosure under Part V of the Police Act 1997. The recording of intelligence on the Scottish Intelligence Database (SID) must meet the standard grounds for retention i.e. the interests of national security, the prevention or detection of crime and disorder, the maintenance of community safety, the assessment or collection of any tax or duty or of any imposition of a similar nature and otherwise serves as a significant public interest.

***(2) Please confirm whether the answer to (1) above has changed in the past 4 years;***

I do not consider this question to be valid in terms of section 8 of the Act as it seeks opinion as opposed to recorded information. By way of information there has been no change in the past 4 years.

***(3) From January 2018 – present, please provide copies of any and all policy guidance and documents relating to the development of policy, whether formal or informal, with regards to your police force's processing of enhanced criminal record certificates (per s.113B(4) of the Police Act 1997) relating to current or former officers or members of staff.***

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I can advise that Police Scotland does not hold the requested information. In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

To be of assistance there is no such guidance or documents which exist.

Should you require any further assistance please contact Information Management – Glasgow at [foi@scotland.police.uk](mailto: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.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.

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.