| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2913  Responded to: 18th January 2024 |
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Your recent request for information is replicated below, together with our response.

## I am writing to request the following information relating to non-crime hate incidents, specifically

## The number of NCHIs reported, and the number recorded, since 3rd June 2023 to 3rd November 2023

Please, first of all, accept my sincere apologies for the delay in providing a response to your request.

In response, please see the following:

1. Recorded Interim Vulnerable Person’s Database (iVPD) Hate Concern Incidents, Where No Crime Occurred, Broken on Local Authority. 03 June to 03 November 2023.

| Local Authority | Jun | Jul | Aug | Sep | Oct | Nov |
| --- | --- | --- | --- | --- | --- | --- |
| Aberdeen City | 5 | 1 | 2 | 3 | 3 | 0 |
| Aberdeenshire | 3 | 0 | 1 | 2 | 1 | 0 |
| Angus | 1 | 1 | 3 | 1 | 1 | 1 |
| Argyll and Bute | 2 | 2 | 0 | 2 | 0 | 0 |
| City of Glasgow | 15 | 24 | 14 | 15 | 31 | 2 |
| Clackmannanshire | 0 | 1 | 0 | 1 | 0 | 0 |
| Dumfries and Galloway | 4 | 0 | 3 | 3 | 0 | 0 |
| Dundee City Council | 3 | 1 | 0 | 1 | 3 | 0 |
| East Ayrshire | 4 | 2 | 0 | 0 | 1 | 0 |
| East Dunbartonshire | 1 | 0 | 2 | 2 | 3 | 0 |
| East Lothian | 3 | 2 | 4 | 1 | 2 | 0 |
| East Renfrewshire | 2 | 1 | 2 | 2 | 5 | 2 |
| Edinburgh City | 32 | 24 | 21 | 27 | 43 | 1 |
| Eilean Siar (Western Isles) | 1 | 0 | 0 | 0 | 0 | 1 |
| Falkirk | 3 | 3 | 3 | 2 | 1 | 0 |
| Fife | 7 | 2 | 7 | 6 | 6 | 0 |
| Highland | 3 | 5 | 4 | 7 | 7 | 0 |
| Inverclyde | 1 | 1 | 0 | 2 | 0 | 0 |
| Midlothian | 2 | 2 | 4 | 3 | 4 | 0 |
| Moray | 1 | 0 | 0 | 1 | 1 | 0 |
| North Ayrshire | 1 | 0 | 3 | 2 | 1 | 0 |
| North Lanarkshire | 3 | 1 | 0 | 1 | 3 | 0 |
| Orkney Islands | 0 | 0 | 2 | 0 | 0 | 0 |
| Perth and Kinross | 1 | 1 | 3 | 3 | 2 | 0 |
| Renfrewshire | 5 | 3 | 6 | 3 | 0 | 1 |
| Scottish Borders | 3 | 2 | 2 | 2 | 4 | 0 |
| South Ayrshire | 0 | 0 | 1 | 1 | 0 | 0 |
| South Lanarkshire | 3 | 5 | 2 | 5 | 4 | 0 |
| Stirling | 0 | 1 | 2 | 1 | 0 | 0 |
| West Dunbartonshire | 1 | 0 | 0 | 0 | 1 | 0 |
| West Lothian | 3 | 2 | 5 | 5 | 6 | 0 |
| Total | 113 | 87 | 96 | 104 | 133 | 8 |

2. Recorded iVPD Hate Concern Types, Recorded Against Hate Concern Incident Nominals, Where No Crime Occurred. 03 June to 03 November 2023.

| Hate Concern Type | Jun | Jul | Aug | Sep | Oct | Nov |
| --- | --- | --- | --- | --- | --- | --- |
| Disability | 11 | 5 | 12 | 8 | 10 | 1 |
| Race | 96 | 65 | 75 | 94 | 93 | 9 |
| Religion / Belief | 12 | 12 | 9 | 9 | 28 | 2 |
| Sexual Orientation | 26 | 19 | 25 | 27 | 31 | 1 |
| Transgender | 11 | 7 | 10 | 6 | 12 | 0 |
| Total | 156 | 108 | 131 | 144 | 174 | 13 |

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 30th November 2023.

As there can be multiple hate concern types attached to a hate incident, the total number of hate concerns types will not reflect the number of unique hate incidents.

Please note, Table 1 relates to 'No Crime' Hate Incidents. Table 1 is a count of unique 'No Crime' hate incidents.

Police Scotland does not retain any information for statistical purposes once a record has been weeded from iVPD.  When a record is weeded, it is removed from the system, and there is no retention of data outside the weeding and retention policy.  Please note, the [Record Retention Policy](https://www.scotland.police.uk/spa-media/nhobty5i/record-retention-sop.pdf) states that if a person is recorded as "no concern / not applicable" then this will only be retained for 6 months.

## A copy of the log, or record, kept by your force of all non-crime hate incidents reported since 3rd June 2023 to 3rd November 2023

## This should include a summary of the report, the hate strand, and if possible, where/when the incident occurred. Please redact any personal data from the records.

In terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

(a) states that it holds the information,

(b) states that it is claiming an exemption,

(c) specifies the exemption in question and

(d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested.

The exemption(s) that I consider to be applicable to the information requested by you is/are as follows:

Section 38(1)(b) – Personal Data

Section 34(1)(b) – Investigations

Section 35(1)(a)&(b) - Law enforcement

Section 39(1) - Health & Safety

**Section 34(1)(b) – Investigations**

**Section 35(1)(a)&(b) – Law Enforcement**

**Section 39(1) – Health, safety and the environment**

Section 34(1)(b) of the Act provides that information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

**Public Interest Test**

I do appreciate that there is a degree of interest in the release of the information you have requested and that to do so would help inform public debate on policing in Scotland.

However it is essential that any release of information does not interfere or prejudice enquiries. To do so would put the enquiries at risk and to do so would be vastly against the public interest.

The balance lies in withholding the information requested at this time.

In regards to Section 35(1)(a)&(b) and 39(1), as per the above, release of this information would be likely to prejudice substantially the ability of the police to investigate and detect crime, and would have a similar detrimental impact on the apprehension or prosecution of offenders.

It would provide an insight into non-hate crime investigations and would be extremely useful for criminals and those intent on wrongdoing and would assist them in circumventing the efficient and effective provision of law enforcement by the police service, which in turn would have an adverse impact on the safety of the officers involved and the general public.

This would increase the risk to the personal safety of individuals and also the safety of the police officers responding to incidents.

These are non-absolute exemptions and requires the application of the public interest test.

**Public Interest Test**

Public awareness would favour a disclosure as it would contribute to the public debate surrounding the police handling of non-hate crime investigations.

I would, however, contend that the efficient/effective conduct of the service and public safety favours retention of the information as it cannot be in the public interest to release information that would prejudice law enforcement or which is likely to have an adverse impact upon public safety.

Accordingly, at this time the public interest lies in protecting the integrity of investigative and criminal justice procedures by refusing to provide the information sought.

I appreciate that there is a public interest in relation to police investigations. That said, it is essential that neither the investigation nor the potential for proceedings to be brought against an individual are put at risk.

**Section 38(1)(b) - Personal Data**

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met.

The only potentially applicable condition is set out at Article 6(1)(f) which states:

‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child’

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject.

On that basis, it is my view that disclosure of the information sought would be unlawful.

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](mailto:foi@scotland.police.uk) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.