

Our Ref: IM-FOI-2022-0630  
Date: 29<sup>th</sup> March 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 to make a FOI request relating to Police Scotland's definition of 'criminal'. Most notably, the Police definition of 'a criminal act'**

**The reason for this request is that I would like to receive clarification on the correct definition, as I recently reported a disability-based hate crime against a neighbour who made offensive gestures towards me, which I believed would be considered criminal under the Criminal Justice and Licensing (Scotland) Act 2010 and Hate Crime and Public Order (Scotland) Act 2021, whereby the neighbour repeatedly made an abusive gesture towards me, implying that I was mentally impaired, whilst also attempting to cause me fear by making false allegations towards me.**

Crimes in Scotland are recorded in accordance with the Scottish Government Justice Department offence classification codes.

The information you seek, is publicly available within the Scottish Crime Recording Standard.

As such, 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 and the exemption that I consider to be applicable is set out at Section 25(1) of the Act - information otherwise accessible:

*“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”*

The information is available on the Police Scotland website, via the following link:

[SCRS Crime Manual \(scotland.police.uk\)](https://www.scotland.police.uk)

Information relating to Hate Crime can also be found on our website:-

[Hate crime - Police Scotland](#)

You may also wish to consider submitting a Complaint Against the Police via the online complaints form:-

[Police Complaints Form | Police Scotland](#)

Should you require any further assistance please contact Information Management Dundee, 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.

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.