

Access to Information Protocol - A Guide for Victims and Witnesses The Victims and Witnesses (Scotland) Act 2014

The central objective of the Victim and Witnesses (Scotland) Act 2014 (the Act) is to improve the experience of victims and witnesses within the criminal justice system in Scotland. One of the key provisions is that victims and witnesses have a legal right to request certain information about their case.

The Act specifies different types of information which can be requested. Some of this information will be public information – for example the name of the accused persons appearing in criminal courts on a given day can be found at <https://www.scotcourts.gov.uk>. However some of this information is protected by the Data Protection Act because the information relates to another person – for example the reason why a criminal investigation or criminal prosecution is not proceeding potentially relates to information about the accused and the victim. There will be circumstances where it is not appropriate to provide this information to a third party even if they are a witness in the case.

Police Scotland, the Scottish Court Service (SCS) and the Crown Office and Procurator Fiscal Service (COPFS) hold information for differing purposes and on different computer systems. These three organisations have over the last few years routinely given information to victims and witnesses who have requested it and it is intended that this will continue. The information contained below is a guide for persons who wish information to decide which organisation to ask, how to ask and what information you may be given.

Who can request information

- a person who appears to be a victim of the offence or alleged offence;
- a prescribed relative of such a victim where the person's death was caused, or appears to have been caused, by the offence or alleged offence;
- a person who is to give, or is likely to give, evidence in criminal proceedings in relation to an offence or alleged offence;
- a person who has given a statement to a police officer or prosecutor in relation to the offence or alleged offence.

Who can you get the Information from

- Police Scotland;
- the Scottish Court Service (SCS);
- Crown Office and Procurator Fiscal Service (COPFS).

What information can you request

- The decision and reasons not to proceed with a criminal investigation
- The decision and the reasons to end, a criminal investigation
- The decision and the reasons not to take criminal proceedings

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- Where a case is brought to court - where and when the case will be heard
- The nature of the charges libelled against a person
- Where a case is appealed – where and when the appeal will be heard
- The stage that criminal proceedings have reached
- The final decision of the court in the case, (or in any appeal following that decision), and any reasons for it

How and who do you ask for the Information

Decision and reasons not to proceed with or to end a criminal investigation – Main provider of information – Police Scotland

If you are a victim or witness of a crime Police Scotland will discuss with you how you will be kept informed and will advise you of who to contact if you want to discuss the progress of the investigation, or any other information that has been provided to you. However, where you specifically want to know the decision and reason not to proceed with, or to end a criminal investigation and this information has not been provided to you, you can:

- Make the request by completing the [attached form](#)
- Once you have completed the form return it to Information Management, Police Scotland, Fettes Avenue, Edinburgh, EH4 1RB or email IMVictimandWitnesses@scotland.pnn.police.uk along with copies of the identification documents specified within.

If you need any further advice or guidance, please do not hesitate to contact us by emailing IMVictimandWitnesses@scotland.pnn.police.uk

Once Police Scotland has received your completed application and appropriate identification, they will deal with it as soon as possible and in any event, within 40 days.

Where a formal request is made to Police Scotland it will be shared with COPFS to ensure that duplicate requests are not being made to both organisations

Decision and reasons not to institute criminal proceedings – Main Provider of information - COPFS

Criminal proceedings includes warning letters, fiscal fines, compensation offers, and other alternatives to prosecution which it is competent for COPFS to make.

There are categories of crime such as serious crime including sexual offending, stalking and domestic abuse where victims are referred to VIA (Victim Information and Advice) Service which is part of COPFS. If you are a victim of a crime and have been in contact with VIA they will provide you with the information you require.

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If you qualify as a victim or witness who can request information and wish to know what decision COPFS has made in relation to proceedings you can contact the COPFS enquiry point by email at < EnquiryPoint@copfs.gsi.gov.uk > by telephone from a landline on 0844 561 3000 or from a mobile on 01389 739 557

Please note that that the information that you will receive about the reasons for a decision to take no criminal proceedings may require to be limited (See other considerations below).

If you have not received the information you have asked for then you can:-

- Make the request by completing the attached form
- Once you have completed the form return it to Response and Information Unit Crown Office and Procurator Fiscal Service 25 Chambers Street, Edinburgh, EH1 1LA or email RIU@copfs.gsi.gov.uk along with copies of the identification documents specified within

Once COPFS have received your completed application and appropriate identification, they will deal with it as soon as possible and in any event, within 40 days.

Where a formal request is made to COPFS it will be shared with Police Scotland to ensure that duplicate requests are not being made to both organisations

Where and when a case is to be heard – Main Provider – Scottish Court Service

Details relating to the calling of cases, including trials, due to call in the near future, may be found on the Court Rolls on the SCS website at www.scotcourts.gov.uk under **Current Business**. This includes cases in the High Court of Justiciary, sheriff courts and JP courts.

A trial is fixed in a case where an accused person has submitted a plea of not guilty and it is necessary for the court to hear evidence at a future date. If you have been, or are to be, cited to attend as a witness you will receive details of the location date and time of the trial in the citation you receive from the prosecutor or solicitor for the defence. Details may also be available from your victim information or support liaison person, if you have one.

However if you believe a trial is to take place, and you have not received any details or have mislaid them, you may check the position by contacting your local sheriff court for details of Sheriff and JP court cases. Contact details may be obtained by selecting the appropriate court in the search location field at www.scotcourts.gov.uk.

For details of a High Court case you may call 0131 240 6908 or email supreme.courts@scotcourts.gov.uk .

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Please quote any reference numbers you have which might assist to identify the case.

The nature of charges libeled against a person – Main Providers - SCS and COPFS

Where no proceedings are being taken no information will be given about the nature of the charges as none will be libelled.

Where an Indictment or Complaint has called in Court

Where criminal proceedings have been commenced, and the case has called in a public court, information about the nature of the charges can be requested from the SCS. Details will not be released where it appears that the accused person has not received details of the libelled charges. Contact details may be obtained by selecting the appropriate court in the search location field at www.scotcourts.gov.uk

For details of a High Court case you may call 0131 240 6908 or email supreme.courts@scotcourts.gov.uk

No information will be provided by SCS where the case has called on petition in private. In this instance it may be possible to obtain the nature of charges libelled from the Crown Office and Procurator Fiscal Service.

Only the general nature of charges will be provided e.g. assault, theft by housebreaking. The finer detail of the charges, including the names of any victims will not be released.

Please quote any reference numbers you have which might assist to identify the case.

Petition Proceedings

Where a case has called in court on petition the hearing will be held in private. Only the general nature of charges will be provided e.g. assault, theft by housebreaking. The finer detail of the charges, including dates of offences, where the offence happened and the names of any victims will not be provided.

If you are a victim of a crime and have been in contact with VIA they will provide you with the information you require.

If you qualify as a victim or witness who can request this information you can contact the COPFS enquiry point by email at EnquiryPoint@copfs.gsi.gov.uk, by telephone from a landline on 0844 561 3000 or from a mobile on 01389 739 557

If you have not received the information you have asked for then you can:-

- Make the request by completing the attached form

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- Once you have completed the form return it to Response and Information Unit Crown Office and Procurator Fiscal Service 25 Chambers Street, Edinburgh, EH1 1LA or email RIU@copfs.gsi.gov.uk along with copies of the identification documents specified within

COPFS will respond as soon as possible but in any event within 40 days of receipt of the date of requesting the information.

Where and when any appeal is to be heard - Main Provider - SCS

Details of appeal cases due to call in the near future, may be found on the Court Rolls on the SCS website at www.scotcourts.gov.uk under **Current Business**.

If you are unable to find the information you seek in relation to the hearing of the appeal, you may contact the High Court of Justiciary by calling - 0131 240 6912 (for summary case appeals) or 0131 240 6909 (for solemn case appeals) or email supreme.courts@scotcourts.gov.uk.

Please quote any reference numbers you have which might assist to identify the case.

Stage that criminal proceedings have reached – Main Provider - COPFS

Where you are not sure what stage criminal proceedings have reached you should contact COPFS enquiry point at EnquiryPoint@copfs.gsi.gov.uk by telephone from a landline on 0844 561 3000 or from a mobile on 01389 739 557

Criminal proceedings include warning letters, fiscal fines and compensation offers, and other alternatives to prosecution which it is competent for COPFS to offer to offenders. Where an accused has been offered an alternative to prosecution you may be told what type generally was given i.e. a fiscal fine, a referral to the children's reporter, etc.

If you have not received the information you have asked for then you can:-

- Make the request by completing the attached form
- Once you have completed the form return it to Response and Information Unit Crown Office and Procurator Fiscal Service 25 Chambers Street, Edinburgh, EH1 1LA or email RIU@copfs.gsi.gov.uk along with copies of the identification documents specified within.

COPFS will respond as soon as possible but in any event within 40 days of receipt of the date of requesting the information.

Where a case has been taken to court, details relating to the progress of that case may be obtained by contacting the relevant court. Contact details may be obtained by selecting the appropriate court in the search location field at www.scotcourts.gov.uk.

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For details of a High Court case you may call 0131 240 6908 or email supreme.courts@scotcourts.gov.uk.

Please quote any reference numbers you have which might assist to identify the case.

Final decision of the court in the case, (or in any appeal following that decision), and any reasons for it. – Main Provider - SCS

Details of the court's final decision or disposal (e.g. sentence) in a case may be requested from the relevant court using the contact details mentioned above.

However where you wish confirmation of the court's final decision or disposal **and any reasons for it**, you should make your request in writing. Please note the reasons for a jury's verdict, after deliberation, cannot be provided.

- You should make the request by completing this [Form](#) (click)
- Once you have completed the form, return it as explained below, along with copies of the identification documents mentioned in the form

For sheriff court and JP court trial cases you should submit your request, in writing, to the court where the trial was heard. Contact details may be obtained by selecting the appropriate court in the search location field at www.scotcourts.gov.uk.

For details of a High Court case you may call 0131 240 6908 or email supreme.courts@scotcourts.gov.uk .

Where the request is for information in relation to an appeal arising from a trial your request should be in writing and sent to :- The High Court of Justiciary, Parliament House, 11 Parliament Square, Edinburgh EH1 1RQ or emailed to supreme.courts@scotcourts.gov.uk.

SCS will respond as soon as possible and in any event within 40 days of receipt of the request.

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OTHER CONSIDERATIONS

Will I be asked for any further information

Any person requesting information under the Victims and Witnesses (Scotland) Act 2014 should be aware they may have to provide proof of identity or other information in relation to their request. This will depend on the information being sought.

Should anyone request information on behalf of any other person they must be in possession of a signed mandate from that person and be aware that this mandate may be investigated.

Is there any reason I may not get the information requested

There are statutory exemptions where information will not be provided. If this applies to your case you will be advised; however, the detailed reason for this decision will not be given. All you will be told is that it is considered that disclosure of the information to you is not appropriate.

Information will not be given where it has been supplied by a Minister of the Crown or a department of the Government and is held in confidence.

Information will not be given where the organisation who holds the information considers that it would be inappropriate. Examples of this have been given above and could also include:-

- where information is sought in a case which is not proceeding and the Crown wish to advise the victim of the decision and the reasons prior to telling a witness
- where the information sought may prejudice the outcome of any future court proceedings or trial
- Some types of alternatives to prosecutions depend on consent so for example some local authority social work schemes require an assessment to determine if the accused is suitable. While this assessment is ongoing it will not be appropriate for any information about the process to be given. In addition some social work alternatives are dependent on the accused completing a course or other condition successfully. Until the scheme is complete it will be inappropriate to disclose any information
- where information is sought in a case which is not proceeding and the crown have decided not to intimate the decision to the accused due to the possibility of further information /evidence being anticipated, it may not be appropriate to advise the victim or a witness.
- Any unsolved murder case will remain open to further investigation and it may be appropriate to limit the information which can be given to a witness or prescribed relative
- Where the giving of information is restricted by another act for example the Data Protection Act 1998