| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1080  Responded to: 22 May 2023 |
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Your recent request for information is replicated below, together with our response.

You should note that the Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only.

In relation to your requests below, there is no recorded information, an overarching guidance document on the policing of protests and assemblies etc, held by Police Scotland that could be relied upon to comprehensively answer the questions posed.

Section 17 of the Act - information not held - therefore applies.

To be of assistance however, we have made enquiry with subject matter experts within the force and they have advised as follows:

* **What processes are in place (such as monitoring and evaluation) to ensure that Police Scotland’s policing of protests and assemblies is proportionate and in line with the European Convention on Human Rights?**

The obligation on the police to act in accordance with the ECHR is outlined in Section 6 of the Human Rights Act which states that it is ‘unlawful for a public authority to act in a way which is incompatible with a Convention right.

Police Scotland are a rights based organisation.

ECHR Articles 9, 10 and 11 form the basis of an individual’s right to participate in peaceful protest.

The right to freedom of peaceful assembly under ECHR Article 11 protects the right to protest in a peaceful way (including static protests, marches, parades and processions, demonstrations and rallies). It does **not** include participation in **violent** protests.

ECHR Article 11 places both **negative and positive duties** on the police.

The **negative duty** means that the police must not prevent, hinder or restrict peaceful assemblies except to the extent allowed by ECHR Article 11(2). i.e. restrictions placed on the exercise of a person’s Article 11(1) rights can only be justified if those restrictions are:

1. **prescribed by law**;
2. pursueone or more of the following legitimate aims: national security or public safety, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights; and
3. are **necessary** for and **proportionate** to the achievement of those aim(s).

The **positive duty** means that, in certain circumstances, the police are under a duty to take reasonable steps to protect those who want to exercise their rights peacefully. This applies where there is a threat of disruption or disorder from others. This does not mean that there is an absolute duty to protect those who want to protest, but the police must take reasonable measures in particular circumstances.

The Gold Commander’s Strategy is the foundation that all subsequent planning and deployment rely on. For this reason, the Gold Commander’s leadership ability and strategic oversight is critical to the successful planning and deployment of an operation. The Gold Commander determines the strategic objectives and retains strategic oversight and overall command responsibility throughout the operation, it is through this scrutiny that a proportionate Police response to protest and assemblies is assured.

Effective briefing and debriefing of Officers and partner agencies if applicable are crucial to the success of a proportionate Policing response and future learning.

Governance and accountability for Public Order Public Safety (POPS) within Police Scotland lies with the Assistant Chief Constable who is the Force lead. It is within this role the ACC chairs a POPS quarterly meeting. The purpose for this meeting is to promote regional working, including working with partners in order to deliver Public Order standards contained in the Strategic and National Policing requirements.

Police Scotland’s ability to function effectively is reliant upon the trust of the public and their belief that we can carry out our duties in a fair and impartial manner.

The Professional Standards Departmenthas responsibility for overseeing and managing all criminal, non-criminal and quality of service [Complaints About the Police](https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf).

In evaluating this type of information, good practice and emerging trends are identified and disseminated to officers.

If an individual is dissatisfied with the way in which their complaint has been dealt with they can request that the Police Investigations and Review Commissioner (PIRC) review the case.

The PIRC is an independent organisation not connected to the police, which provide scrutiny of the way Police Scotland, the Scottish Police Authority and policing agencies in Scotland respond to complaints from the public.

* **What data does Police Scotland record on the policing of protests and assemblies?**

The actual information and data collated by Police Scotland in relation to the policing of protests and assemblies will vary significantly depending on the nature and scale of the event and the police response.  Examples of data regarding particular protests can be found in various FOI responses and media releases on our website:

[22-0073 - Arrest / FPN Stats - Protest at Scottish Parliament & Calton Hill - 06 Mar 21 - Police Scotland](https://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log/disclosure-log-2022/january/22-0073-arrest-fpn-stats-protest-at-scottish-parliament-calton-hill-06-mar-21/)

[Statement from ACC Mairs following protests at Ayr Racecourse - Police Scotland](https://www.scotland.police.uk/what-s-happening/news/2023/april/statement-from-acc-mairs-following-protests-at-ayr-racecourse/)

* **How does Police Scotland record, monitor and evaluate the use of force during protests/ assemblies?**

The law recognises that there are situations where [Use of Force](https://www.scotland.police.uk/spa-media/20dfjby2/use-of-force-national-guidance-publication-scheme-version.docx) by police officers may be required. The primary responsibility for using force rests with individual officers, who are answerable to the law. The use of force by police officers is governed by Common Law and the rights and freedoms contained within the ECHR.

The requirement that domestic law and ECHR Articles 2, 3 and 8 impose is that, if possible, non-violent means should be used to resolve an incident before force is used.

Any use of force by an officer is officially recorded on Police Scotland systems and evaluated by qualified Officer Safety Training staff.

* **Does Police Scotland have guidance on the dispersal of protests/assemblies?**

ECHR Articles 9(1) and 10(1) are qualified rights. This means that lawful restrictions may be imposed on the exercise of the right to freedom of expression provided any such restrictions are in accordance with the law; have one or more legitimate aim (such as public safety, the prevention of disorder or crime or the protection of the rights of others); and are necessary and proportionate.

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.