

Our Ref: IM-FOI-2022-0937
Date: 16th May 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.

Please provide a full statistical count of all and any incidences of any individual being deployed, recruited, or otherwise solicited by Police Scotland, The Chief Constable of Police Scotland or any other agency whatsoever as a "Covert human resource" "Spy", or "Informant" and in the course of their use being given legal authorisation to commit the following acts:

A) Authorised deadly acts.

B) Authorised sexual acts.

C) Authorised violent acts.

Upon any other individual.

Between 1/3/2021 - 1/3/2022

Under HM Covert Human Intelligence Sources (Criminal Conduct) Act of 2021.

I note the slight difference to your previous request, FOI-22-0662, in that it refers to all individuals rather than adults, however in terms of the Freedom of Information (Scotland) Act 2002, I am refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18 of the Act.

Section 18 applies where the following two conditions are met:

- It would be contrary to the public interest to reveal whether the information is held
- If the information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act

The following exemptions are considered relevant:

- Section 34(1)(b) - Investigations
- Section 35(1)(a)&(b) - Law Enforcement
- Section 38(1)(b) - Personal information
- Section 39(1) - Health and Safety

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It is acknowledged that matters relating to the use of these measures are of public interest and such awareness may favour confirming or otherwise the existence of further information of relevance, as it would contribute to the public debate surrounding the issue.

However I would argue that the integrity of any protective measures would be significantly undermined if we were to confirm the extent of information held, through FOI or otherwise, and any such disclosure would substantially prejudice the ability of Police Scotland with regards the prevention and detection of crime and the apprehension or prosecution of offenders.

Section 2(1) & (2) of the Act provide that information can only be considered exempt in terms of the exemptions set out above to the extent that the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

Public Interest

The key test when considering where the balance of public interest lies is to establish whether, in all the circumstances of the request, the public interest in confirming or denying the information is held is not outweighed by maintaining the exemption(s).

Although I consider that public awareness would favour a disclosure as it would contribute to the public debate surrounding the application of these measures, we must ensure that the release of this level of detail is not inadvertently providing potentially harmful information and placing an individual at risk. This is a matter of principle which applies equally to any member of the public who could find themselves subject to this or other protective measures in a variety of circumstances.

In conclusion, it simply cannot be in the public interest for Police Scotland or any police force to confirm details of those individuals who are currently, or have been in the past, subject to this process.

This explanation should not be taken as indicative or conclusive evidence that the information you have requested does or does not exist.

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 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 or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

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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.