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Our Ref: IM-FOI-2022-0523
Date: 19th April 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.

- **Has Police Scotland interacted or engaged with any faith communities, organisations or denominations in relation to preaching and teaching in situations where the subject matter may potentially engage the criminal law?**
- **If such engagement or interaction has happened, what was the outcome?**
- **If no such engagement or interaction has taken place, is there any intention on the part of Police Scotland to progress such matters?**

In response to the three questions above, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, there is no central recording system that is able to record every interaction that officers have with members of the public. In order to determine if any such occurrences had taken place all officers notebooks would need to be manually examined to determine if any engagements with faith communities had occurred. This is an exercise which I believe would greatly exceed the cost threshold. Police Scotland has thousands of officers, to manually examine all officer notebooks even within a single year would exceed the cost threshold.

Police Scotland have assessed that the £600 cost limit within the Act equates to 40 hours of work and so this part of your request would breach the cost threshold.

- **Does Police Scotland have specific policy or recommended best practice in dealing with issues where religion or faith may be perceived to intersect with the criminal law?**

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In response to this question I must advise that Police Scotland do not have any such policy. The law is clear and there is no known legislation where exceptions exist for any crime committed for a religious cause.

- **What is the threshold used by operational and investigating officers in determining whether or not a verbal exchange ought to be classified as a hate crime rather than the exercise of free speech?**

The definition of a hate crime is shown below. The perception of those involved is the threshold that determines whether an exchange may be classed as a hate crime.

Hate crime is defined as;

‘any crime which is perceived by the victim or any other person as being motivated (wholly or partly) by malice and/or ill-will towards a social group.’

There are currently five social groups protected under hate crime legislation in Scotland:

- Disability,
- Race,
- Religion,
- Sexual Orientation and
- Transgender Identity

If the facts do not identify as a recordable crime but the victim, or any other person perceives it to be a hate related, the circumstances will be recorded as a hate incident.

Perception will be relevant in determining whether an incident or crime is hate related or in recognising the malice element of a crime.

To assist in identifying whether or not a hate crime/incident has taken place, officers should ask the victim or witness three questions.

Who perceived the incident to be hate related?

Why that person perceived the incident to be hate related?

What impact did the incident have on the victim and/or community?

It is important to note that the impact of the offence is not necessary to establish a hate crime and in some cases there may be no obvious impact upon the victim.

Further, it is important to note that officers will not challenge another person’s perception, but explore it.

Perception based recording refers to the perception of the victim or any other person. The fact that any person can perceive an incident to be motivated by malice and ill-will is of

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particular note to police officers or staff, who in themselves can identify that an incident is hate related, even if the victim does not or no victim was present/identified.

What training do officers and staff receive in navigating the territory covered by human rights, religion and criminal justice?

The Human Rights Act, along with Police Scotland's Core Values of Fairness Integrity and Respect are woven throughout the entire Probationer Training Programme where appropriate.

New officers and staff receive a full lesson in Human Rights within their first week of training.

Religion is discussed during the Valuing Diversity and Inclusion lesson, elements are repeated throughout the course where appropriate for example Prisoner Rights, and Dealing with death, and criminal elements within the Hate Crime Lesson.

Human Rights legislation will be repeated during annual refresher training for Operational Safety Training which all operationally deployable officers will receive.

Police Scotland provide an additional Hate Crime Advisor course, it has a section on understanding Human Rights with regards to assessing hate crimes. There is a general overview of Human Rights with a focus on Article 10 - Freedom of Expression.

Should you require any further assistance please contact Information Management 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.

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.