

OFFICIAL

Our Ref: IM-FOI-2022-0363
Date: 01 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.

1: What rights does a person have when being stop and searched?

Please be advised that information regarding a person's rights while being stop and searched is publicly available.

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.

This information is publically available on the Police Scotland Stop and Search Website under the 'Your Rights' Section at the following link:

<https://www.scotland.police.uk/about-us/how-we-do-it/stop-and-search/>

2: do any of these rights change when being detained under s23 misuse of drugs act?

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.

OFFICIAL

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.

The information is contained in part 1.6 of the Stop and Search Code of Practice available on the Scottish Government website.

To be of assistance I have provided the corresponding link.

<https://www.gov.scot/publications/code-practice-exercise-constables-power-stop-search-person-scotland/>

3: when being stop and searched and a negative search is returned, does a person need to provide details such as name, address to the officer?

In response to this question please see the response to question 2.

To be of assistance please see part 6.13 within the Stop and Search Code of Practice linked above.

4: what are the stop and search procedures that officers are legally required to follow

In response to this question please see the response to question 2.

This information is contained in parts 1.5 to 1.7 the same guide, the Stop and Search Code of Practice linked above.

5: Is an officer legally required to follow the “Stop Search” National guidance SOP published on 22/06/21?

The definitions and instruction contained within the Standard Operating Procedures (SOP) and guidance documents have been developed by Police Scotland to support police officers in the lawful, proportionate and effective use of stop and search as an operational tactic, whilst ensuring that any such use remains COP (Code of Practice) compliant.

The Standard Operating Procedure and Guidance Document are available on the Police Scotland website, by way of assistance, I have added a links below.

<https://www.scotland.police.uk/spa-media/jbulaw2y/stop-and-search-sop.pdf>

<https://www.scotland.police.uk/spa-media/excb1qxt/stop-and-search-national-guidance.doc>

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.

OFFICIAL

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.