

Our Ref: IM-FOI-2015-1177



Sir Stephen House QPM
Chief Constable

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. The number of applications made for a unique identification number since the Snares (Identification Numbers and Tags) (Scotland) Order 2012 came into force.

The Wildlife and Natural Environment (Scotland) Act 2011 has a number of provisions that affect the use of snares in Scotland. Since 1st April 2013 any person who sets a snare in position must have an identification number. On the date of checking (16/06/2015), 1311 identification numbers had been issued and an additional 27 applications were in progress.

2. The number of arrests made in relation to the illegal use of snares since the above order, as well as the Snares (Scotland) Order 2012 and the Snares (Training) (Scotland) (No. 2) Order 2012, came into force.

The police in Scotland have the power to arrest an individual where there is sufficient evidence to support a charge against them, for a common law crime or for a statutory offence where the statute empowers the police to arrest, without warrant, any person contravening its provisions. When a statute confers power to arrest any person contravening its provisions, this power should be exercised only if it is necessary in the interests of justice that the offender should be taken into custody. If citation will prove equally effectual, arrest should not be made. Such information is not routinely recorded in a retrievable format as this data alone is not required for any policing purpose.

To clarify further, information in relation to arrests cannot be provided from our crime recording system, as not all offenders are routinely arrested when they commit crimes and some may be subject of a report to the Procurator Fiscal, without ever having physically been arrested. Furthermore, an individual may be arrested to assist police with their enquiries, without any charge being brought against them so this information would not be captured through such analysis.

Police Scotland operates a number of recording systems and whilst robust statistical analysis can be made of the data held on each of our systems, they are not, at present, designed to enable the retrieval of the highly specific information as per your request.

The only way to provide you with this information in an accurate and consistent manner would be to individually examine each crime and incident report created on these systems since November 2012 where an offence is suspected under the legislation which relates to the illegal use of snares, e.g. Wildlife & Natural Environment (Scotland) Act 2011,

Conservation (Natural Habitats) Regulations 1994 & Conservation (Natural Habitats, & c.) Amendment (Scotland) regulations 2007, Wildlife and Countryside Act 1981, amended by The Nature Conservation (Scotland) Act 2004, Deer (Scotland) Act 1996, Wild Mammals Protection Act (1996) and Animal Health & Welfare (Scotland) Act 2006. A provisional search has identified 534 such files on (the Highlands and Islands Division) crime reporting system alone.

Therefore having considered your request I am afraid that I am unable to provide a response, 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.

3. Any reports, assessments, correspondence and meeting minutes discussing the illegal use of snares since the orders mentioned directly above came into force – including the details of any scheme(s) in place to prevent such activity.

I note that you have requested a copy of a document; however, I would draw your attention to a decision by the Court of Session (a link to this is provided below) where both the meaning and definition of the term “information” under the Freedom of Information (Scotland) Act 2002 (the Act) has been clarified. Further information on this issue can be obtained from the Scottish Information Commissioner’s own website.

<http://www.scotcourts.gov.uk/opinions/2009CSIH73.html>

The Court held that while the Act provides access to information recorded in any form, their decision made it clear that there is a distinction between the information itself and the document in which it is contained, for example a memo, e-mail, minutes, etc. While the act provides a right of access to information, it does not follow that an applicant has a right of access to the documentation in which it is contained. The Court took the view that if an applicant has the right to be given information then it would be that data, rather than the document that it is contained within that is disclosed. This could be, for example the provision in a summary of what is contained within a document, rather than providing a copy of the record that contains the information.

I can confirm that one piece of correspondence from November 2012 is held on file. This precedes the inception of Police Scotland and was sent by the Assistant Chief Constable of Strathclyde Police and is dated 09/11/2012. It advises the Chief Constables of the remaining seven legacy forces of the introduction of the Central Policy Registry for the Snaring Identification Numbers scheme. An extract of the information held within this document is attached.

In addition, prior to the commencement of the Order and the requirement to register with the Police, a PowerPoint presentation was circulated to all legacy forces and this was made available as part of local e-briefing to ensure that Police Officers and members of support staff were aware of their responsibilities and the legal requirements in respect of Snaring Identification Numbers applications. A copy is attached along with a sample application form.

In addition a Wildlife Crime Guidance booklet is available to all officers and an extract of the section which contains the information in respect of snares is also attached.

Should you require any further assistance concerning this matter please contact me directly on 01463 720555 quoting the reference number given.

If you are not satisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this response, to request a review of the decision. Should you wish to do so, contact details are; FOI Central Processing Unit, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH - foi@scotland.pnn.police.uk

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Scottish Information Commissioner within six months for a decision. Contact details are; Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS - enquiries@itspublicknowledge.info

Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

Yours sincerely,

Donna Quick
Information Management