

Our Ref: IM-FOI-2019-1385
Date: 25 June 2019



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 could you provide details on monitoring covert surveillance techniques by your officers.

I would first advise you that the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) was brought into force to ensure that surveillance activities undertaken by certain public bodies in Scotland (or others acting as their agents) are properly regulated and fully compliant with human rights legislation.

The Investigatory Powers Commissioners Office (IPCO) now provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities.

All relevant governance and other useful links can be found on the Investigatory Powers Commissioner's Office website at <https://www.ipco.org.uk/>

For clarity, IPCO took over the responsibility for oversight of investigatory powers from the Interception of Communications Commissioner's Office (IOCCO), the Office of Surveillance Commissioners (OSC) and the Intelligence Services Commissioner (ISComm) in September 2017. IPCO also took over the inspection and audit functions of these bodies and the prior approval function of Surveillance Commissioners relating to intrusive surveillance, property interference and undercover officers by law enforcement.

I have considered your request for information under the Act and I would advise you that Police Scotland have a robust Standard Operating Procedures (SOP's) which focuses on the statutory basis to safeguard against challenges under Article 8 of the European Convention on Human Rights and creates a system of authorisations for various types of surveillance.

Please be advised that this SOPs is publicly available.

As such, 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:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”

The information you are seeking is available on the Police Scotland website:

- <https://www.scotland.police.uk/assets/pdf/151934/184779/directed-surveillance-intrusive-surveillance-and-property-interference-sop>

Can you confirm if placing paper in someone's door frame is included within this, how many times has this been used (with or without a warrant) and how do senior officers sign off on this procedure? If you do not have this data why? You should be monitoring surveillance behaviours of your officers.

Any such action would not be deemed as surveillance as it is not specific to a given person and as such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information you seek is not held by Police Scotland.

To clarify, although such a tactic could potentially suggest that someone may have entered a dwelling or property, this is not a definitive conclusion and would not enable officers to attribute this action to, or identify a specific individual.

Should you require any further assistance please contact Information Management – Highland & Islands Divisional Headquarters on 01463 720508 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.pnn.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.

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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.

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