

Our Ref: IM-FOI-2021-0277  
Date: 14<sup>th</sup> April 2021



## 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. For the year 2019/20, please provide the number of arrests made in connection with all instances of online grooming offences by adults against children.**

In response to your request, 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, in Scotland there is no recognised crime of online grooming, with crimes of this nature recorded under a variety of offences, which in general are recognised within the umbrella of Online Child Sexual Abuse and Exploitation (CSAE).

However, in order to be of assistance I can advise these above mentioned crime types include offences under the following acts;

- Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005
- Sexual Offences (Scotland) Act 2009

I can advise that 475 persons were arrested for crimes under the above Acts which relate to crimes that can be considered as “grooming” activity. I would ask that you note that grooming is not a defined term under these Acts.

Section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 creates an offence of meeting a child following certain preliminary contact. Of the 475 arrests detailed above, 49 were arrests made relating to offences under this Act.

Full details of this legislation can be found at the below link

<https://www.legislation.gov.uk/asp/2005/9/contents>

Please note that this legislation states that an offence under this Act can be committed not only online, but also via telephone or in person. For the purpose of this response, the figures include all manner of contact i.e. either online or otherwise.

A further 2973 arrests were recorded for offences committed under terms of Section 127 of the Communications Act 2003, however, in order to determine whether the offences were committed online and if the offences related to sexual activity with a child each record would need to be individually assessed. I estimate that it would take approximately 2 minutes to examine each record. This would greatly exceed the work limit threshold set out in the FOI Act.

Additionally, there may be occasions whereby a suspect is arrested for an offence not listed above and through subsequent enquires is charged with an offence covered by these Acts and therefore there was no specific arrest directly related to the 'grooming' offence.

Please note that the above figures are only for persons arrested for an offence covered by the Acts specified, meaning that the arrested person may or may not have been charged with the offence.

It is also worthy of note that one person may have been arrested on a single occasion for numerous offences recorded above. Alternatively, the same person can be arrested more than once for the same offence.

**2. For the year 2019/20, please provide the number and names of all so-called paedophile hunting groups associated with the online grooming offences identified in 1.**

Firstly, I must advise that Police Scotland does not recognise, in a formal sense, the term "paedophile hunting groups". Therefore, information is not recorded under this header. Police Scotland refers to activist groups that report Online CSAE offending as Online Child Sexual Abuse Activist Groups (OCAG).

It is also worthy of note, that should a member of an OCAG report an offence to police, their name would be recorded for statement purposes. Whether they are, or are not, a member of an OCAG is not a mandatory recording field. Therefore, even if a member of an OCAG had reported an offence, their OCAG status may not be recorded.

Further, Online Sexual Abuse Activist Groups regularly post images and recordings in a public forum of people whom they believe to have committed an Online CSAE offence. By disclosing members of which OCAGs have reported various offences it may assist with the identification of witness information and specific individuals along with their arrested status.

As such, with reference to providing the names of OCAG's, 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,

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- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

However, the exemption that I consider to be applicable to the information requested by you is section 38(1)(b) - Personal Data.

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

*'Information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person'*

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

*'Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject'*

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met.

The only potentially applicable condition is set out at Article 6(1)(f) which states:

*'Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child'*

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information I do not accept that disclosure is necessary for that purpose.

Further, I am of the view that any interests are overridden by the interests or fundamental rights and freedoms of the data subject.

On that basis, it is my view that disclosure of the information sought would be unlawful.

Should you require any further assistance please contact Information Management, Edinburgh on 0131 311 3901 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](mailto: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.

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You can apply [online](#), by email to [enquiries@itspublicknowledge.info](mailto: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.