| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-0718  Responded to: 07 May 2024 |
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Your recent request for information is replicated below, together with our response.

## Q1. On what date will the Hate Crime and Public Order (Scotland) Act 2021 be commenced?

The Hate Crime and Public Order (Scotland) Act 2021 commenced on 01 April 2024.

## Q2. Please provide the following information for the year ending 31 March 2023:

## Total number of non crime hate incidents (NCHI) recorded by Police Scotland

The interim Vulnerable Persons Database (iVPD) is the formal means by which Police Scotland record police contact with adults, children and young people who are, or are perceived to be, experiencing some form of adversity and / or situational vulnerability, which may impact on their current or future wellbeing; or where force policy dictates e.g. domestic abuse, hate crime, youth offending or to record details of victim’s rights under Section 8 and 9 of the Victims and Witnesses (Scotland) Act 2014.

The iVPD is a dynamic database which is constantly being updated and changed.

I can advise that for the period 01 April 2022 until 31 March 2023, 1146 hate incidents where no crime occurred were recorded on iVPD.

## Total number of offences recorded by Police Scotland where a statutory aggravation of prejudice has been attached (hate crimes)

I can advise that for the period 01 April 2022 until 31 March 2023, 6275 hate crimes were recorded on iVPD.

## Total number of offenders charged by Police Scotland with an offence aggravated by prejudice (hate crime)

I can advise that for the period 01 April 2022 until 31 March 2023, 4039 hate crimes were shown to be detected on iVPD. If a crime is shown to be detected this provides that the perpetrator has been identified and charged.

## Q3. In relation to the total number of offences recorded by Police Scotland where a statutory aggravation of prejudice has been attached (hate crimes), please provide a breakdown of the numbers recorded for each of the following current protected characteristics for the year ending 31 March 2023:

## Disability

## Race

## Religion

## Sexual orientation

## Transgender identity

In response to this question please see the table below.

| **Aggravator Summary** | **2022/23** |
| --- | --- |
| Race | 3 534 |
| Religion | 387 |
| Race & Religion | 58 |
| Other Multi Aggravator (incl. Race or Religion) | 212 |
| Disability | 460 |
| Sexual Orientation | 1 407 |
| Transgender | 124 |
| Other Multiple Aggravators (excl. Race or Religion) | 93 |
| **Total** | **6 275** |

## POLICIES/GUIDANCE Although some information on policy/guidance is publicly available, it appears in a number of different formats (eg National Guidance, Toolkit, Standard Operating Procedure) and it’s unclear how current the information contained in these documents is.  I appreciate that some policy/guidance may be in the process of being revised (eg to take account of recent case law and new legislation) and that updated versions may not yet be available.  I’ve taken this into account when framing the questions in this section.

## Q4 Please provide copies of Police Scotland’s most current guidance/policy documents covering the issues listed below and, where relevant, indicate whether any documents provided are in the process of being updated:

## the recording of non crime hate incidents (NCHI)

## the recording of hate crimes (offences aggravated by prejudice)

## the investigation of both of the above

## Q5  Does Police Scotland’s current policy/guidance on the recording and investigation of NCHI and hate crimes specifically address ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases relating to Maya Forstater v CGDE (June 2021) and Harry Miller v The College of Policing (December 2021)?

In response to questions 4 and 5, the information sought is publicly available:

[Interim guidance published for officers on the recording of Non-Crime Hate Incidents - Police Scotland](https://www.scotland.police.uk/what-s-happening/news/2024/may/interim-guidance-responding-to-hate/)

The information is therefore held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the section 25(1) exemption applies:

“Information which the applicant can reasonably obtain other than by requesting it […] is exempt information”.

## Q6.  Where policy/guidance is being updated, will it specifically address ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases of Forstater and Miller?

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

The policy is currently being updated, as such I cannot advise explicitly that it will address the decisions made within the cases noted.

## Q7.  I understand that Equality Impact Assessments (EIA) are not a legal requirement under the Equality Act 2010.  However, in Scotland, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 set out a duty to assess and review the impact of policies and practices to ensure Public Sector Equality Duty compliance.

## Please, therefore, provide copies of any EIAs or other relevant assessments carried out in respect of Police Scotland’s current policy/guidance on the recording and investigation of NCHI and hate crimes.

## Q8.  In relation to current policy/guidance, where an EIA or other relevant assessment was carried out, do these assessments specifically address ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases of Forstater and Miller?

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

By way of explanation the Hate Crime and Public Order (Scotland) Act 2021 was introduced by the Scottish Government, the Police Scotland current interim guidance was created in response to the introduction of the Act.

The Responding to Hate Standard Operating Procedure is in the process of being updated in line with the Act, an Equality and Human Right Impact Assessment (EqHRIA) will be competed as part of the update.

## Q9.  Where policy/guidance is being updated and an EIA or other assessment is not yet available, will they specifically address ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases of Forstater and Miller?

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

The policy is currently being updated, as such I cannot advise explicitly that it will address the decisions made within the cases noted.

## TRAINING - Hate Crime and Public Order (Scotland) Act 2021

## Q10.  In September 2023, ACC Faroque Hussain was quoted in the media as saying:  *“Our training package has been developed in close consultation with diversity staff associations to ensure all protected characteristics under the new Act are clearly represented and articulated…..”*

## Please list the diversity staff associations referred to and any other organisations/bodies consulted in the development of the Police Scotland training package(s)/materials for each of the following:

## A  age

## B  disability

## C  race, colour, nationality (including citizenship), or ethnic or national origins

## D  religion or, in the case of a social or cultural group, perceived religious affiliation

## E  sexual orientation

## F  transgender identity

## G  variations in sex characteristics

## Note:  If it isn’t possible to break the information down by protected characteristic, please provide a composite list of all of the staff associations and bodies/organisations consulted.

In response to this question please see the lists below.

**Internal Associations:**  
Association of Scottish Police Superintendents  
Legal Services Department  
Corporate Communications  
C3 (Contact, Command and Control)  
Governance Demand and Planning  
PPCW Equality and Diversity Department  
Probationer Training Department  
Portfolio Delivery Department  
Legislation and Compliance Unit  
Local Policing Programme  
Criminal Justice and Service Delivery  
Scottish Police Federation  
  
**Non-Statuatory** **Police Staff Associations**:  
• SEMPER Scotland  
• Scottish Police Muslim Association  
• Christian Police Association  
• Scottish Police Disability and Carers Association  
• Scottish LGBTI Police Association  
• Scottish Women’s Development Forum  
  
**External Associations:**  
Scottish Government Strategic Partnership  
Group (comprising of):  
• Age Scotland  
• Black and Ethnic Minority Infrastructure in Scotland (BEMIS)  
• Council of Ethnic Minority Voluntary Organisations (CEMVO)  
• Crown Office and Procurator Fiscal Service (COPFS)  
• Education Scotland  
• Equality Network  
• Glasgow Disability Alliance  
• Interfaith Scotland  
• RespectMe   
• YouthLink Scotland  
• Christian Institute of Scotland  
  
And also:  
IAmMe Scotland  
Unison  
Unite  
LGBT Youth Scotland  
Scottish Equality Network  
Klinefelters Syndrome Association

## Q11.  Does the training provided to personnel on the 2021 Act include specific training on ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases of Forstater and Miller?

Yes.

## Q12.  Please provide copies of any EIAs or other relevant assessments carried out in respect of training packages/materials on the 2021 Act.

The information requested is held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the exemption at section 30(c) of the Act applies.

Section 16 requires Police Scotland to: (a) state that it holds the information, (b) state that it is claiming an exemption, (c) specify the exemption in question and (d) state, if that would not be otherwise apparent, why the exemption applies.

I can confirm that the training in relation to the new Hate Crime and Public Order (Scotland) Act 2021 is in the process of being rolled out internally across the service. Accordingly, it is not appropriate for training materials, or any associated documents intended to be delivered to staff and officers to be made publicly available prior to that structured learning program being completed. Whilst I accept that there is a genuine public interest in openness and transparency around the steps being taken by Police Scotland in this area, that interest is wholly outweighed by the need to ensure that internal training is made available first and foremost to our officers and staff as intended, in accordance with the training timetable.

## Q13.  Where an EIA or other relevant assessment was carried out for these training packages/materials, do these assessments specifically address ‘protection of freedom of expression’ and, in particular, the impact of recent decisions in the cases of Forstater and Miller?

Yes.

## HATE CRIME UNIT

## I understand from press reports that a new ‘hate crime unit’ is to be established by Police Scotland.  The following questions are only relevant if that is the case.

## Q14.  What is the new unit to be called?

## Q15.  When will it become operational?

## Q16.  Where will it be located?

## Q17.  Please provide a copy of the new unit’s role and remit.

## Q18.  How many police officers and police staff will be deployed to the unit?  Please break down by rank/grade.

## Q19.  How much did it cost to establish the new unit?

## Q20.  Please provide a copy of the organisational structure of the unit, including lines of accountability to ACC level.

In response to questions 14 to 20, in terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

By way of explanation, Police Scotland does not have a “Hate Crime Unit”.

## DATA COLLECTION

## Q21.  Under Section 15(1) of the Hate Crime and Public Order (Scotland) Act 2021, the Chief Constable is required to provide certain information to Scottish Ministers in order that they can publish an annual report on the Act. Although some of that information is prescribed in the legislation, it’s not clear whether this represents all or only some of the information to be provided in practice.

## Please, therefore, provide a full list of the agreed information which the Chief Constable will provide to Scottish Ministers.

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

By way of explanation, although some of the data that will be provided to Scottish Government is prescribed by the Act, formal discussions around the precise detail have not taken place yet. As such, Police Scotland do not hold full details of what information will be provided to the Scottish Government.

## Q22.  Section 15(3) of the 2021 Act requires that (amongst other things) the“sex” of victims and perpetrators/suspected perpetrators must be recorded by the Police Service. What is the agreed definition of “sex” in this context?

The sex/gender identification of individuals who come into contact with the police will be based on how they present or how they self-declare, which is consistent with the values of the organisation. Police Scotland requires no evidence or certification as proof of biological sex or gender identity other than a person's self-declaration, unless it is pertinent to any investigation with which they are linked as a victim, witness or accused and it is evidentially critical that we legally require this proof, or there is reason for further enquiry based on risk. We would look for the most sensitive way to acquire this information.

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](mailto:foi@scotland.police.uk) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.