| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-0644  Responded to: 13 March 2024 |
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Your recent request for information is replicated below, together with our response.

## I would like to request the names of the missing sex offenders who are missing from Scotland under an FOI.

A missing person is defined as anyone whose whereabouts is unknown and:

* where the circumstances are out of character or
* the context suggests the person may be subject to crime or
* the person is at risk of harm to themselves or another.

Police Scotland treats all missing Registered Sex Offenders with the utmost seriousness and will carry out all possible enquiries to trace their whereabouts and to re-establish the management required to protect the public. On all occasions a Senior Investigating Officer (SIO) of a rank no less than Inspector will be appointed to lead these investigations.

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the requested names.

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.

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’*

The personal data in question would reveal information about an individual’s prior offences.

Whilst that does not in itself render the information *special category* personal data, it is our view that section 10 of the Data Protection Act 2018 makes clear that such information should be treated in a very similar way.

Article 9 of the GDPR only allows special category data to be processed in very limited circumstances and it is assessed that none of those circumstances are relevant here.

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

To be of some assistance, as part of our commitment to demonstrate openness and transparency in respect of the information we hold, Police Scotland, on a monthly basis, publish data regarding the number of Registered Sex Offenders in our communities, broken down by policing division and postcode area.

Information regarding “Missing” and “Wanted” Registered Sex Offenders is also published via the link below:

[Registered Sex Offender (RSO) Numbers - Police Scotland](https://www.scotland.police.uk/about-us/what-we-do/specialist-crime-division/sex-offender-policing-units/registered-sex-offender-rso-information/)

Police Scotland is committed to keeping people safe. Our focus is on the protection of those at risk of harm through prevention, early intervention and the robust investigation of those who pose such a risk. We fulfil our role as a Responsible Authority in the delivery of MAPPA providing effective and efficient management of Registered Sex Offenders (RSO’s) and Other Risk of Serious Harm Offenders.

This is achieved through each of Police Scotland’s 13 local policing Divisions having a dedicated Sex Offender Policing Unit (SOPU) with specialist officers working in partnership to police and reduce the risk posed by such offenders.

While we can never eliminate risk entirely, we want to reassure communities that all reasonable steps are being taken to protect them.

## Also can you advise under a FOI how many sex offenders have changed there personal details and not notified police Scotland of these changes.

In response, to this question, we have assumed that you are requesting for the number of offenders who have breached their sex offender notification requirements - notification requirements cover name/s, address/es, travel information, passport details, banking details etc as outlined in legislation which again is set out on the Police Scotland web site, [Policing of Registered Sex Offenders - Police Scotland](https://www.scotland.police.uk/about-us/what-we-do/specialist-crime-division/sex-offender-policing-units/policing-of-registered-sex-offenders/).

I can advise you that crime data is publicly available and as such I am refusing to provide it in terms of section 16(1) of the Act on the basis that section 25(1) exemption applies:

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

[Crime data - Police Scotland](https://www.scotland.police.uk/about-us/how-we-do-it/crime-data/)

The offence is data is found under Group 5 crimes - Failure to notify police provision of false 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.