| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-0069  Responded to: 7th February 2023 |
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Your recent request for information is replicated below, together with our response.

**Hello there, I'm following up some recent reporting on non-crime hate incidents in Scotland. I want to get a sense of what these incidents are....is it possible to get a breakdown of whether these incidents relate to actual or presumed disability, race, religion, sexual orientation or transgender identity over a snapshot period of time eg one or two months in order to stay within FOI expense limits please?**

**The Times report refers to 625 non-crime hate incidents recorded for the first half of 2022. Would it be possible to get the breakdown for May and June of that year? And is any further detail about the incidents recorded that you'd be able to share without risk of identifying individual cases? Again, just trying to get a sense of what constitutes one of these incidents.**

Please find the requested statistics in the table below. I would ask you to note the caveats provided below the table.

| **Hate Concern Type** | **Jan** | **Feb** | **Mar** | **Apr** | **May** | **Jun** |
| --- | --- | --- | --- | --- | --- | --- |
| Disability | 6 | 7 | 11 | 11 | 17 | 11 |
| Race | 41 | 38 | 85 | 60 | 89 | 85 |
| Religion / Belief | 7 | 6 | 5 | 7 | 20 | 11 |
| Sexual Orientation | 14 | 13 | 21 | 18 | 16 | 29 |
| Transgender | 7 | 6 | 8 | 3 | 9 | 10 |
| **TOTAL** | **75** | **70** | **130** | **99** | **151** | **146** |

## Caveats

* All statistics are provisional and should be treated as management information. All data have been extracted from Police Scotland internal systems and are correct as at 2nd February 2023.
* As there can be multiple hate concern types attached to a hate concern incident nominal, the total number of hate concerns types will not reflect the number of unique hate incidents, or unique hate concern incident nominals.
* Please note, Table 1 relates to non-crime hate incidents only.
* Please note, Table 1 is a count of hate concern types.

In regards to the additional summary information requested, I am refusing to provide you with these details.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

* states that it holds the information,
* states that it is claiming an exemption,
* specifies the exemption in question and
* 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’

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 and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject. I do not believe summary information can be provided without risking those involved being identified.

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

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.