| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-1215Responded to: 15 May 2024 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

**I am writing to request information under the Freedom of Information Act, can you please provide the following:**

**[How many people arrested/charged for sending 'malicious messages' between April 2022 and April 2024]**

1. **How many people charged and how many people cautioned under the Section 127 of the Communications Act 2003? Between April 2022 and April 2024 - Broken down by year.**

In response to your request, I must first of all advise you that a caution in Scotland has a different meaning to that in England and Wales.

In England and Wales, the term relates to a formal police warning.

In Scotland a caution is common law, used when interviewing a suspect, taking a statement from someone who may end up being an accused person, or when charging someone.

The caution is simply informing that person of their rights.

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.

In relation to charges**,** unfortunately, I estimate that it would cost well in excess of the current FOI cost threshold of £600 to process your request. I am therefore refusing to provide the information sought in terms of section 12(1) of the Act - Excessive Cost of Compliance.

By way of explanation, crimes in Scotland are recorded in accordance with the Scottish Government Justice Department offence classification codes, many of which cover more than one piece of legislation.

The offence set out at s127 of the Communications (Scotland) Act 2003 can be covered by the following offence classification codes:

'Communications Act 2003 (sexual)'

'General post office/ telecommunications offences' (which covers non-sexual content)

Whilst the first classification is specific to section 127 offences, the second includes a number of other offences set out in different legislation including the Mobile Telephones Act 2002, the Post Office Act 1953, the Postal Services Act 2000 and the Telecommunications Act 1984.

Unfortunately, it is not possible to ascertain which of the General post office/ Telecommunications offences relate to section 127 of the Communications (Scotland) Act 2003 without an individual assessment of each case.​

As illustrated by our published statistics, there are a vast number of reports which would require individual assessment [Crime data - Police Scotland](https://www.scotland.police.uk/about-us/how-we-do-it/crime-data/)

**2. How many people charged and how many people cautioned under the Malicious Communications Act 1988? Between April 2022 and April 2024 - Broken down by year.**

**3. What was the nature of these arrests/charges? For example, posting something on a social media site.**

**Can these be broken down by year and presented in PDF format?**

the Malicious Communications Act does not extend to Scotland. 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.

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 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 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.