| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-1000Responded to: 6th June 2023 |
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Your recent request for information is replicated below, together with our response.

**The following questions are intended to examine the impact of the recent Law Commission report on Hate Crime, published 2021, on the way police forces record and report on crime.**

**As you will be aware, crimes aggravated by hostility based on sex are not currently treated as hate crimes under the criminal law.**

**Some police forces have, however, trialled recording crimes aggravated by hostility towards sex and gender, and in particular misogynistic crime. The Law Commission report, however, argued that sex and gender should not be added as protected characteristics for the purposes of aggravated offences and enhanced sentencing.**

**As such, please could you answer the following:**

**1. Do you keep a record of crimes aggravated by hostility towards sex or gender that are reported to (or discovered by) your force?**

**NB. Please note the reference to gender concerns cisgender identity, as crimes aggravated by hostility towards transgender identity are already captured under s.66(1) Sentencing Act 2020. References to gender in the below questions should also be read as references to cisgender identity.**

Section 8 of the Freedom of Information (Scotland) Act 2002 makes clear that a request has to seek information already recorded at the time of the request in order to be valid. In normal circumstances a request for a yes/no answer is not a request for recorded information and is therefore not valid.

To be of some assistance however and noting you are explicitly excluding transgender recording from your request, I can confirm that Police Scotland do not record sex/gender aggravators at this time.

**2. If not:**

**a. Have you ever done?**

Section 8 of the Freedom of Information (Scotland) Act 2002 makes clear that a request has to seek information already recorded at the time of the request in order to be valid. In normal circumstances a request for a yes/no answer is not a request for recorded information and is therefore not valid.

To be of some assistance however and noting you are explicitly excluding transgender recording from your request, I can confirm that Police Scotland have never recorded sex/gender aggravators.

**b. Are there plans to do so in future?**

Section 8 of the Freedom of Information (Scotland) Act 2002 makes clear that a request has to seek information already recorded at the time of the request in order to be valid. In normal circumstances a request for a yes/no answer is not a request for recorded information and is therefore not valid.

To be of some assistance however, in regards to the [Hate Crime and Public Order (Scotland) Act 2021](https://www.legislation.gov.uk/asp/2021/14/contents). This legislation outlines the offences in Scotland aggravated by hate with [section 15](https://www.legislation.gov.uk/asp/2021/14/section/15) of this Act outlining the reporting obligation of Police Scotland.

In relation to your question you may be interested to note [section 12](https://www.legislation.gov.uk/asp/2021/14/section/12) of this Act.

Police Scotland are considering our recording practices to adhere to this legislation, however and noting you are explicitly excluding transgender recording from your request, this work currently is not considering crimes aggravated by hostility towards sex or gender.

**3. Has the Law Commission’s 2021 report affected whether you collect this information? If so, how?**

Section 8 of the Freedom of Information (Scotland) Act 2002 makes clear that a request has to seek information already recorded at the time of the request in order to be valid. In normal circumstances a request for a yes/no answer is not a request for recorded information and is therefore not valid.

To be of some assistance however, I have confirmed with the relevant departments that they do not hold any information in regards to this question.

**4. If Yes to question 1, please state:**

**a. The number of crimes and incidents that were logged on your system as aggravated by hostility towards sex or gender in 2020, 2021 and 2022 (please give two separate figures for each year- crimes and incidents)**

**b. For those recorded as crimes, please give the nature of these offences (broken down by year and into crime categories, as defined by your force)**

**c. Please also give the number of crimes logged that led to a:**

**(i) Caution**

**(ii) Criminal prosecution**

**(iii) Conviction**

**(Please give separate figures for each year)**

As our answer to question 1 is no, these questions are not applicable.

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.