| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-1462  Responded to: 19 July 2024 |
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Your recent request for information is replicated below, together with our response.

## To ask Police Scotland what its position is on whether (a) the Scottish Government and (b) Police Scotland could be liable for any material effect to a Scottish resident's circumstances if it was found that any negligence or malice or informal disclosure on the part of a public servant had led to public knowledge of a recorded non-crime hate incident.

## To ask Police Scotland what its position is on whether the recording of non-crime hate incidents under the Hate Crime and Public Order (Scotland) Act 2021 could have a i) financial or ii) material effect on an individual's employment or otherwise personal circumstances, and to clarify whether this would ever be the case.

As you may be aware, the Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only. Section 8 of the Act states that in order for a request to be valid, an applicant must describe the information requested - which is not the same as asking for a statement to be created in response to a particular matter.

We are unable to offer any comment therefore as regards the matters set out above.

In terms of any pre-existing recorded information that would set out the Police Scotland ‘position’, such information is not held, and section 17 of the Act therefore applies.

## To ask Police Scotland what formal legal advice it has received in relation to a person being recorded as the perpetrator of an NCHI.

Your question has been interpreted as a request to identify what external legal advice has been received in relation to a person being recorded as the perpetrator of a non-crime hate incident.

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

Police Scotland have not received any external legal relation to a person being recorded as the perpetrator of an NCHI.

## To ask Police Scotland what reporting requirements it has to the Scottish Government or other publicly funded bodies regarding the rate and nature of non-crime hate incidents.

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 this information is not shared with the Scottish Government or any other publicly funded body.

## a. To ask Police Scotland whether it:

## (i) requires and (ii) conducts formal security clearances for anyone designated as a "hate crime advisor" or "hate crime champion", as set out in the document*, Interim Guidance - Responding to Hate*.

## Hate Crime Advisors and Hate Crime Champions are police officers who have been vetted in accordance with their role.

## b. The number of such employees.

## (i) Their employment status – i.e. civil servant, private sector advisor, non-executive director broken down by category .

Police Scotland have a cadre of around 80 hate crime advisors and 450 hate crime champions to support colleagues.

Contact, Command and Control (C3), officers and staff also received tailored training.

Hate Crime Advisors and Hate Crime Champions are all police officers.

## To ask the Scottish Government, in light of the recently published Police Scotland interim guidance on the recording of non-crime hate incidents (NCHIs), which states that a report would happen in "exceptional circumstances", what are defined as "exceptional circumstances" in which a party allegedly at fault in a reported incident could have their details recorded.

## To ask what legal tests a police force must “reasonably meet” in order for it to be justified in recording an incident in which it believes an individual may be at fault without being tested in court.

In response to the two questions above, please see the link below, Responding to Hate. [Interim guidance - Responding to Hate](https://www.scotland.police.uk/what-s-happening/news/2024/may/interim-guidance-responding-to-hate/)

Beyond that interim guidance, no further detail that would address the points raised is held, and section 17 of the Act therefore applies.

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.