

Our Ref: IM-FOI-2017-1983  
Date: 19 October 2017



## FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002. Furthermore, I note your request for a review concerning the failure to provide a response within the statutory timescale outlined within the Act.

Consequently, I write to confirm that a decision has now been made, and following your request, please acknowledge this as a response under Section 21 (4) (c) - (Review by Scottish Public Authority).

For ease of reference, your request is replicated below together with the response.

### **(1) When was the VPD created and what were the statutory vires for its creation?**

The Interim Vulnerable Persons Database (VPD) was created in 2013 with national implementation being completed on 1 April 2014, following a phased roll-out across Police Scotland.

The rationale of the VPD reflects the main purposes of Policing as delineated in the Police and Fire Reform (Scotland) Act 2012, to enable the police to improve the safety and wellbeing of people and communities across Scotland. This is achieved by promoting measures to prevent crime, harm and disorder. It is therefore relevant, balanced and proportionate that the personal details of those experiencing some form of adversity or situational vulnerability and perpetrators, where given, are recorded appropriately.

### **(2) How many individual records of are currently held on the VPD of**

**(a) adults**

**(b) children 0-11; and**

**(c) young people 12-18**

The table below provides the number of unique nominals by age category listed on VPD. The age category was identified by subtracting the date of birth against the date of the request, and is correct as at 5 September 2017.

#### ***Nominals recorded on iVPD, by age group : Police Scotland***

*Period: At present date (05/09/2017)*

Age group	Number of nominals
1 to 11 years old	131 745
12 to 18 years old	108 645
19 years old and above	550 384
Unknown	24 282
<b>Total</b>	<b>815 056</b>

*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 05/09/2017.*

*<sup>1</sup> 'Nominals' here refer to individual persons recorded on iVPD.*

Not all nominals are subject of wellbeing or protection concerns. VPD is also used to record victim's rights under Section 8 and 9 of the Victims and Witnesses (Scotland) Act, 2014 and records details of any perpetrator linked to an incident. In addition, a proportion of nominals on the database are classified as No Concern/Not Applicable, but that are necessary and relevant to record (e.g. a parent of a child; details of an interpreter or an Appropriate Adult who assisted communication or a witness).

**3) What is the precise statutory definition of 'vulnerable' in relation to the VPD and where can this be found in primary legislation?**

The term "vulnerable" is not defined in statute.

**4) What are the precise statutory criteria for inclusion of 'vulnerable' adults, children and young people on the VPD?**

There are no statutory criteria for inclusion on the VPD, individuals are included where necessary for a policing purpose (as delineated in the Police and Fire Reform (Scotland) Act 2012) and in compliance with the Data Protection Act 1998 and Human Rights Act 1998.

**(5) Is third party data (e.g. of family members and/or adults and children associated with 'vulnerable' persons) held on the VPD?**

Yes, where it necessary, relevant, justified and proportionate and in compliance with the Data Protection Act 1998 and the Human Rights Act 1998.

**(6) How is consent obtained from data subjects (or parents/carers in the case of minors or those without capacity) and any associated third parties for:**

- (a) their initial inclusion on the VPD; and**
- (b) any further processing/sharing of their data?**

a) Consent is not necessary for initial inclusion on the VPD; individuals are recorded where it is necessary for a policing purpose.

b) Consent is not always necessary for the sharing of data, however if it is deemed necessary it will be obtained by the officers in person, or by another suitable means in compliance with the Data Protection Act 1998.

**(7) Are data subjects always notified of their inclusion on the VPD, or are there legally prescribed circumstances in which they might be added without their knowledge or consent?**

Individuals may be added to VPD without their knowledge or consent in certain circumstances, for example where informing an individual would be prejudicial to the prevention or detection of a crime. There may also be circumstances where it is not possible or appropriate to inform the individual of their inclusion due to a serious risk of identifiable harm to that data subject or another individual.

**(8) Under what circumstances is the personal data held on the VPD shared with other public or third sector bodies, including GIRFEC Named Persons, and how are data subjects notified of this in the absence of imminent risk to their vital interests?**

Personal data may be shared with other public and third sector bodies where it is considered necessary, lawful, justified and proportionate. Information sharing will be assessed for compliance with the Data Protection Act 1998, Human Rights Act 1998 and the common law duty of confidentiality.

Data subjects are notified of Police Scotland's information processing, including sharing, via the Information Charter on the Police Scotland website:

[Information Charter - Police Scotland](#)

Where it is appropriate and possible to do so, data subjects will be told in person that their information may be shared, why and who it may be shared with.

***(9) How do data subjects access the records held on them, including reasons for their initial inclusion on the VPD and any subsequent data processing/sharing?***

***And***

***(10) How can data subjects and/or third parties dispute their inclusion on the VPD?***

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought. 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 and the exemption that I consider to be applicable is set out at section 25(1) of the Act - information otherwise accessible:

"Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information"

The information you have requested is publicly available on the Police Scotland website.

To advise, the Data Protection Act 1998 (DPA) covers the whole of the United Kingdom and works in two ways. Firstly, it gives you certain rights as an individual. Secondly, organisations that record and use personal data must be open about how the information is used and must follow the eight principles of the legislation.

This right, commonly referred to as subject access, is created by section 7 of the Data Protection Act. It is most often used by individuals who want to see a copy of the information an organisation holds about them. However, the right of access goes further than this, and an individual who makes a written request and pays a fee is entitled to be:

- told whether any personal data is being processed;
- given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;

- given a copy of the information comprising the data; and given details of the source of the data (where this is available).

For more information, please refer to the following link on our website:

<http://www.scotland.police.uk/access-to-information/data-protection/>

In addition, our information charter sets out the standards that you can expect from Police Scotland when we request or hold information.

As you will be aware, personal information relates to living individuals. We need to handle personal information so that we can carry out our policing duties and support functions. We know how important it is to protect people's privacy and to comply with the Data Protection Act. This is how we look after personal information. Concerning this matter, please refer to the following link on our website:

<http://www.scotland.police.uk/access-to-information/information-charter>

This is an absolute exemption and does not require the application of the Public Interest Test.

***(11) How can data subjects and/or third parties seek amendment or deletion of their records on the VPD?***

In response to this element of your request, please refer to the response at question 9 and 10 above.

***(12) How long are individual and third party records retained and what are the arrangements for deletion of records from the VPD?***

In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

To advise, Police Scotland are presently and actively developing a weeding and retention policy which will address arrangements for deletion of records from the VPD. Whilst this process is being undertaken I am unable to provide a response.

***(13) How many complaints have been received from members of the public in the past five years in relation to their inclusion (or the inclusion of their children) on the VPD, if possible broken down by the broad nature of complaints (e.g. disputed inclusion, requests for deletion, alleged inaccuracies)?***

Having considered your request in terms of the above Act, I regret to inform you that I am unable to provide you with the information you have requested. By way of explanation, the Interim VPD was introduced on 1 April 2014 and prior to this each legacy force maintained different vulnerable recording systems. As such, Section 17(1) of the Freedom of Information (Scotland) Act 2002 applies: notice that information is not held.

With regards to your request since 1 April 2014, I am unable to provide you with the data sought, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request. This is due to the differing methods by which complaints are received and identifying which ones contain references to complaints regarding inclusion on the VPD.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

Should you require any further assistance concerning this matter please contact Information Management - Glasgow on 01786 895 863 quoting the reference number given.

If you are dissatisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this response, to request a review of our actions and decisions.

Should you wish to do so, please contact us at the following address, stating what has caused your dissatisfaction and what you require us to review:

Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH - [foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk)

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Scottish Information Commissioner within six months for a decision. You can raise an appeal using the online service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal) or by writing to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, or via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info).

Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.