



SCOTTISH POLICE
AUTHORITY
ÙGH DARRAS POILIS NA H-ALBA

2 Clyde Gateway
French Street
Glasgow
G40 4EH

LETTER SENT BY EMAIL ONLY

11 September 2025

FOI Ref 2025/26-057

Request

Your request for information dated 12 August 2025 is copied below.

I am making this request under the Freedom of Information (Scotland) Act 2002.

It concerns the Scottish Police Authority's statutory responsibilities for:

- Governance and strategic oversight of Police Scotland;
- Approval and monitoring of budgets, strategic policy, and performance;
- Ensuring Police Scotland's compliance with statutory duties, including the Equality Act 2010, safeguarding obligations, and lawful public resource use.

This request is made in the context of the binding judgment of the UK Supreme Court in *For Women Scotland Ltd v Scottish Ministers* (No. 2) [2024] UKSC 12, confirming that the term "sex" in the Equality Act 2010 refers to biological sex.

1. Equality Act 2010 Compliance and Governance Oversight

Please provide, for the period 1 January 2019 to the date of your response:

1.1. All SPA-held policy papers, legal advice (internal or external), board or committee papers, and briefing notes concerning Equality Act 2010 compliance in Police Scotland operations, training, recruitment, and policy, with specific reference to:

- The *For Women Scotland* ruling and its implications for policing;
- Use of gender identity terminology in guidance or policy;
- Safeguarding obligations, including protection of women, children, and vulnerable groups;

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- Prevention of compelled belief or restrictions on lawful expression, including political or ideological content in operational or training materials;
- Immigration/resource eligibility issues in operational practice or public service delivery.

1.2. All records of discussions, decisions, or resolutions by the SPA Board or committees on these topics, including equality impact assessments and any follow-up monitoring or implementation records.

2. Immigration Controls, Resource Eligibility, and Public Resource Use

Please provide:

2.1. All SPA oversight reports, monitoring records, decision papers, or follow-up reviews concerning:

- Police Scotland's role in immigration enforcement;
- Resource eligibility checks for public services;
- Border/port policing operations;
- Diversion or misuse of public policing resources for purposes outside statutory remit, including political or ideological activities.

2.2. Correspondence between SPA and Police Scotland, HMICS, or the Scottish Government relating to these matters, including safeguarding considerations linked to immigration/border operations.

3. Budgetary and Funding Oversight

3.1. All records showing SPA's approval, amendment, or rejection of Police Scotland budgets, funding allocations, or operational plans where Equality Act compliance, safeguarding, or immigration/resource enforcement were relevant considerations.

3.2. Any conditions, restrictions, compliance requirements, or clawback actions placed on Police Scotland funding linked to Equality Act obligations, safeguarding failures, or unlawful public spending.

4. Post-Supreme Court Ruling Actions and Rationale

If SPA has taken no action to amend policy, governance oversight, or funding conditions following the For Women Scotland ruling, please provide:

- The recorded legal rationale for this position;
- Any documented assessment of SPA's statutory duties in this context;
- Any board, committee, or ministerial decision records explaining the stance;

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- Any monitoring, follow-up, or review records showing why no change was deemed necessary.

5. Scope, Format, and Definitions

- This request covers all recorded information, including but not limited to: board papers, meeting minutes, draft and final documents, emails, handwritten notes, briefing packs, call notes, and audio or video recordings where held.
- "Correspondence" includes any communication in any format between SPA members/staff and external parties.

On 15 August 2025 we requested clarification in an effort to narrow the scope of your request.

Your response received on 15 August is copied below:

I confirm that my request does indeed centre on the implications and handling of the UK Supreme Court judgment in *For Women Scotland Ltd v Scottish Ministers*, 16 April 2025, which confirmed that the protected characteristic of "sex" in the Equality Act 2010 refers to biological sex.

However, my request should not be interpreted so narrowly as to exclude relevant recorded information held by SPA where that judgment has informed, prompted, or influenced:

- Strategic, operational, governance, or policy considerations on Equality Act 2010 compliance
- Any safeguarding, fairness, or compelled belief risk assessments
- Oversight, audit, or review of public spending and resourcing linked to equality compliance
- Communications (internal or with third parties) addressing the judgment's impact

This includes (but is not limited to) documents, emails, meeting minutes, impact assessments, legal or policy advice (subject to FOISA exemptions applied correctly), planning timetables, and equality strategy updates. The date range of 1 January 2019 to present is maintained to capture pre-judgment preparatory or related work, as well as post-judgment actions.

Response

The Scottish Police Authority has considered your request under the Freedom of Information (Scotland) Act (FOISA).

Information in relation to parts one to four of your request, over the period 1 January 2019 to current, is held. Clarification was requested in

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an effort to reduce the information in scope and the timeframe of your request. Clarification did not narrow the scope or timeframe. Therefore, we are unable to provide all of the information as it would prove too costly within the context of the fee regulations.¹

To explain, work to locate and retrieve information held over the timeframe requested returned over 190 records across seven business areas within the Authority. One business area alone holds more than 71 records, consisting of approximately 8210 pages, which are related to Police Scotland operations, training, recruitment, and policy. These records will have information throughout that may be in scope of your request and therefore would require review for both information in scope as well as information that may be exempt. This would require individual review by the relevant Head of Service as well as, in some cases, the Authority's Head of Legal. In addition, all emails, correspondence, meeting minutes and papers would have to be reviewed to redact personal information, as this information is considered exempt under FOISA. Therefore, the Authority has assessed that the £600 cost limit within the Act equates to more than 40 hours of work, and we estimate that it would exceed these thresholds to fully process your request.

However, to assist, we have provided information considered relevant to specific parts of your request and which was located, retrieved and reviewed within the thresholds.

Please find each part of your request duplicated below along with our response.

1.1. All SPA-held policy papers, legal advice (internal or external), board or committee papers, and briefing notes concerning Equality Act 2010 compliance in Police Scotland operations, training, recruitment, and policy

1.2. All records of discussions, decisions, or resolutions by the SPA Board or committees on these topics, including equality impact assessments and any follow-up monitoring or implementation records.

The Authority can confirm that information is held. The Authority is committed to open, transparent and accountable governance of policing. Board minutes and committee papers are publicly available. We have provided links below to meetings that have been identified as including relevant information.

¹ This represents a notice in terms of Section 12 of FOISA – Excessive cost of compliance.

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Authority Meetings

[Authority Meeting 23 May 2024](#) - see Item 11 and Minute.

[Authority Meeting 26 September 2024](#) – see Item 3, Item 4 and Minute.

[Authority Meeting 28 November 2024](#) – see Item 3 and Minute.

[Authority Meeting 20 February 2025](#) – see Minute.

[Authority Meeting 27 March 2025](#) see Minute.

[Authority Meeting 26 June 2025](#) – see Minute.

[Authority Meeting 21 August 2025](#) see Item 5 and Item 6. The Minute is due to be published on 25 September 2025.

Policing Performance Committee

[Policing Performance Committee 10 December 2024](#) – see Item 2.7 and Minute. An extract from a related briefing to Members is provided in the [Appendix](#).

Correspondence to Scottish Parliament following PPC meeting - [Police Scotland Review: Sex and Gender | Scottish Police Authority](#)

[Policing Performance Committee 10 June 2025](#) - see Item 5.1. The Minute is due to be published on 11 September 2025. An extract from a related briefing to Members is provided in the [Appendix](#).

People Committee

[People Committee 29 May 2025](#) - see Item 3.1 and Minute.

[People Committee 28 August 2025](#) - see Item 1.5, Item 3.7 and Item 3.8. An extract from a related briefing to Members is provided in the [Appendix](#).

Some information held contains legal advice to the Authority, which is subject to legal privilege and is considered exempt.² This exemption is subject to the public interest test which is set out below.

Public Interest Test

The public interest factor in favour of disclosure is that:

- The Supreme Court judgment dealt with an issue of significant public interest. It could be argued that the disclosure of legal advice obtained by public bodies in these circumstances would inform the ongoing public debate about the matters covered by the judgment.

The public interest factors in favour of maintaining the exemptions are:

² This represents a notice in terms of Section 36(1) of FOISA - Information may be withheld if it is information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings (for example, if information is “legal privileged”).

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- There is a strong inherent public interest in maintaining the right to confidentiality of communications between a legal adviser and client.
- In this instance, it could be argued that the public interest in withholding the information is even stronger given the real risk of litigation against the Authority or Police Scotland arising from the Supreme Court's judgment. Further litigation was raised against the Scottish Government on this issue recently, as well as against the Scottish Prison Service. The reasonable prospect of litigation makes it all the more important that legal advice obtained by the Authority on this issue remains confidential.

On balance, our conclusion is that maintaining the exemptions outweighs the public interest in disclosure.

2.1. All SPA oversight reports, monitoring records, decision papers, or follow-up reviews concerning:

- **Police Scotland's role in immigration enforcement;**
- **Resource eligibility checks for public services;**
- **Border/port policing operations;**
- **Diversion or misuse of public policing resources for purposes outside statutory remit, including political or ideological activities.**

2.2. Correspondence between SPA and Police Scotland, HMICS, or the Scottish Government relating to these matters, including safeguarding considerations linked to immigration/border operations.

The Authority can confirm that information is held. The Independent Custody Visiting Scheme (ICVS) visits Border Force Detention facilities in Scotland. This is not a statutory requirement, however for reasons of public confidence and transparency, arrangements have been made to visit these facilities in line with the rest of the UK, see page 9 of the [ICVS Annual Report 2024-25](#). ICVS in Scotland is also part of the Immigration Detention Network run by the [Independent Custody Visiting Association](#).

In terms of Police Scotland related elements of 2.1 and 2.2, the Authority does not hold information.³

³ This represents a notice in terms of Section 17 of FOISA - Information not held.

3.1. All records showing SPA's approval, amendment, or rejection of Police Scotland budgets, funding allocations, or operational plans where Equality Act compliance, safeguarding, or immigration/resource enforcement were relevant considerations.

The Authority can confirm that information is held. This part of your request is broad and brings in scope a vast amount of information. For example, the Authority is a mandatory consultee in every Police Scotland policy and standard operating procedure. Authority staff review standard operating procedures, and accompanying EqHRIAs, and amendments may be made as a result of feedback provided. All [Police Scotland standard operating procedures](#) are publicly available along with a summary EqHRIA.

In addition, the standard reporting template to the Authority's Board and Committees incorporates a section for outlining equality implications. Any detail provided is considered alongside the broader content when determining whether to approve a proposal from Police Scotland.

4. Post-Supreme Court Ruling Actions and Rationale

If SPA has taken no action to amend policy, governance oversight, or funding conditions following the For Women Scotland ruling, please provide:

- **The recorded legal rationale for this position;**
- **Any documented assessment of SPA's statutory duties in this context;**
- **Any board, committee, or ministerial decision records explaining the stance;**
- **Any monitoring, follow-up, or review records showing why no change was deemed necessary.**

We would refer to our response at part one.

Right to Review

If you are dissatisfied with the outcome of your request you can ask for a review within 40 working days. You must specify the reason for your dissatisfaction and submit your request by email to foi@spa.police.uk or by letter to Scottish Police Authority, 2 Clyde Gateway, French Street, Glasgow, G40 4EH.

If you remain dissatisfied after review, you can appeal to the Scottish Information Commissioner within six months. You can apply [online](#), by email to enquiries@foi.scot or by letter to Scottish Information

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Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Commissioner's decision, you can appeal to the Court of Session, only if you think the law has not been applied correctly.

This response will be posted to our [Disclosure Log](#) after seven days.

Yours faithfully

Scottish Police Authority

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Appendix

Item 2.7 Sex and Gender Review update

Assurances sought

- Outline of proposed structure and timeline for review
- Detail on scope
- Detail on interdependence with ongoing UK review work into 2025

Briefing

Police Scotland are providing a high level update on their intentions to conduct the review of sex and gender data recording as referenced by the Chief Constable at the Authority meeting in September 2024. The stated aim of the review is to improve terminology, recording practice and use of both terms (sex and gender) across the organisation. As outlined in para 2.2 of the paper, the review aims to look beyond just recording practice and will include stakeholder views.

The paper does not include a commitment to a pre-engagement process with stakeholders in order to inform the scope or terms of reference of the review which may have been a method of assessing early views and ensuring the review was comprehensive. The paper indicates the recommendations from the review will be subject to engagement but the use of a wide range of voices during the review is not made clear in the paper.

Members may wish to seek further detail from Police Scotland on when and how the range of stakeholder organisations and interested parties will be invited to participate in or inform the review recommendations.

The paper references a legal framework upon which the review will be based.

Members may wish to seek further detail from Police Scotland on how this legal framework will be constructed and whether it has the flexibility required to adapt to any outcomes from case law during the review period.

The paper references the use of independent human rights consultants.

Members may wish to seek clarity around the credentials and relevant expertise and experience of such consultants and whether the consultants will be seeking views from a wide range of interested parties.

The work of the review will include policy compliance.

Members may wish to seek clarity around the scope of Police Scotland policies which will be included in the review.

The work of the review will focus on both data compliance, what needs to be recorded, and delivering the organisations values, what should be recorded.

Members may wish to seek clarity around the timescales for delivery of the review and how this will be reported to the Authority.

Item 5.1 Sex & Gender Review Update

Assurances sought

- Clarity on proposed structure and timeline for review.
- Detail on interdependence with ongoing UK review work into 2025.

Briefing

Police Scotland are currently 8 months into a review of their approach to the recording and use of data in relation to Gender and Sex as committed by the Chief Constable at the full Authority meeting on 26 September 2024. Members have previously been sighted on the terms of reference for the review, seeking assurance that the scope would be sufficiently wide to encompass all policy and practice areas where gender and sex would be relevant, and have heard from ACC Paton, DCC Speirs and the Chief Constable on this work since the review was confirmed.

Since the last update to committee in December 2024 a Short-life Working Group (SLWG) has been established to progress a specific strand of review work focused on data recording standards, including definitions, data fields, purpose for recording and approach to recording. The SLWG, over the course of four meetings, has drawn in representatives from across the policing system as well as from diversity staff associations to develop proposals of definitions and data recording standards for wider stakeholder engagement.

Members may wish to seek more detail on which organisations and associations have been involved in the SLWG and how PS are working to ensure as wide a range of inputs as possible.

Members may wish to acknowledge the need to start with first principles around data recording, standards and quality but seek detail on the wider policy review focus and timelines for delivery of this.

Engagement with stakeholders was paused to allow the UK Supreme Court decision to be published and considered, and any updates made to proposals based on the ruling. Following the publication of the decision on 16 April 2025 Police Scotland progressed with invites for an in-person stakeholder engagement session on 29 May 2025.

A range of organisations, groups and staff associations were invited to the stakeholder engagement session, aiming to ensure a wide ranging but balanced input of views on the day. Human Rights Lawyer Jane Gordon was invited to give an input on the day outlining what the Supreme Court ruling means in practice and updating on the work she's doing to support Polcie Scotland with the review. PPC members Mary Pitcaithly, Chris Creegan and Katharina Kasper attended the session as observers.

Members may wish to ask for reflections on the day from ACC Paton and those PPC members in attendance and seek assurance that groups

unable to attend on the day are still able to fully engage with the ongoing review work.

Members may wish to seek insight into groups engagement in the process overall and how this is informing the proposals alongside staff, officers and association input.

All feedback from the engagement session and follow up survey/ meetings will be considered to inform a final report containing recommendations around the recording and use of data as it relates to gender and sex. Alongside the work being delivered in Polcie Scotland, the EHRC is currently engaging on a revised Code of Practice.

Members may wish to seek more detail on the proposals as outlined through the stakeholder engagement session, recognising that these are yet to be finalised based on feedback.

This work is also linked to the College of Policing and NPCC work, aiming to establish a shared and consistent approach across policing in the UK. NPCC have recently, 22nd May, circulated draft guidance on searches of transgender persons and those carried out by transgender police officers and staff.

Members may wish to commend Police Scotland for their alignment of this work to the wider UK activity underway and seek further insights into progress at a UK level.

While coordination of the review and recommendations on practice sit with the policing together portfolio within police Scotland there is recognition in the paper that responsibility for updates to policies and practice sits widely across the organisation.

Members may wish to reflect on the wider policy review work required and how this aligns to policy review activity driven forward through the Policing Together Oversight Group chaired by Tom Halpin.

Item 3.8 Supreme Court Ruling on Sex and Gender

| Item 3.8 | Supreme Court Ruling on Sex & Gender | For Discussion |
|------------------------------|---|----------------|
| Summary | Ad hoc report requested in light of UK Supreme Court ruling on Sex & Gender in Apr 25 in relation to impact on people policy. NB linked action | |
| Prior reporting to committee | <ul style="list-style-type: none"> At Sep 24 Authority meeting, Chief confirmed intention to review PS recording and use of data relating to sex and gender. Resulting briefing paper to Policing Performance Committee in Dec 24 on planned approach At May 25 Authority meeting, Members reinforced need to be assured that review of Transitioning at Work policy (in light of Supreme Court judgement) recognises particular needs of those affected Report presented to Policing Performance Committee in Jun 25, covering wider review requirements in light of Supreme Court judgement PS in Aug 25 communicated interim guidance on workplace toilets, changing facilities and shower rooms, in light of the judgement and subsequent EHRC interim guidance | |
| SPA observations | <ul style="list-style-type: none"> EqHRIA in respect of interim guidance has been reviewed by SPA officials to ensure it is fit for purpose Work on facilities across the estate provides an opportunity to make wider equality-focussed improvements SPA officials are engaged with PS colleagues on this work as it progresses | |