



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

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Your ref:
Our ref: AMcG/LB

8 March 2019

Dear Convener

During the Justice Committee evidence session on 26th February 2019 reference was made to evidence from Action on Elder Abuse Scotland that a Freedom of Information (FOI) request submitted to both Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) highlighted that neither agency records the age of the victim. You asked for a copy of the relevant Freedom of Information correspondence.

As requested, I enclose a copy of the COPFS response to the Action on Elder Abuse Scotland FOI request. The COPFS response includes full detail of the request.

I confirm that, as standard, reports submitted by Police Scotland to COPFS include the date of birth of all civilian witnesses where known, including victims. The age of civilian witnesses, including victims, is therefore recorded on the COPFS Case Management database.

As stated in the COPFS written submission, the COPFS Case Management database is a live operational database, designed to manage cases rather than for statistical purposes. The available database information is, in part, dependent on information supplied by Reporting Agencies. Witnesses are not recorded on the system against specific charges but instead are recorded against the case as a whole.

With these proper caveats, in order to provide an indicative profile of relevant offending dealt with by prosecutors, the COPFS database was examined to identify cases between April 2016 and December 2018 where it was recorded that a victim was aged 60 or over. This examination provided the number of individuals recorded as victims aged 60 or over and a broad categorisation of the most common charges in the cases involving those victims.



www.copfs.gov.uk



The information available from the COPFS database is that between 400 and 550 victims aged 60 or over are reported to COPFS each year. The profile of the principal charges in relevant cases is split between offences of violence (28%), sexual offences (25%), abusive behaviour (22%) and dishonesty (5%). The information available is that over 60% of the victims aged 60 or over are recorded as having been involved in a domestic abuse incident (i.e. an incident involving a partner or ex-partner).

I trust that this information is of assistance.

Yours sincerely



Anthony McGeehan
Procurator Fiscal Policy and Engagement
Crown Office and Procurator Fiscal Service



Dear Ms Carcary

Thank you for your request dated 5 October 2016 under the Freedom of Information (Scotland) Act 2002 (FOISA) for the undernoted information:

In relation to both 1st April 2014 - 31st March 2015 and 1st April 2015 - 31st March 2016:

1. *How many reports were submitted to COPFS by the police in which the harm, neglect or abuse of an older person was a feature?*
2. *In relation to the above cases:*
 - a. *How many resulted in prosecution?*
 - b. *How many of these prosecutions resulted in a deferred sentence?*
 - c. *How many of these prosecutions resulted in a prison sentence of less than one year?*
 - d. *How many of these prosecutions resulted in a prison sentence of more than one year?*
 - e. *How many did not result in prosecution?*
 - f. *How many cases resulted in a warning by the Procurator Fiscal?*
 - g. *How many cases resulted in the perpetrator being issued a fine?*
 - h. *How many cases resulted in the perpetrator being asked to pay compensation?*
 - i. *How many resulted in the perpetrator being referred for specialist support or treatment?*
3. *What was the breakdown of crimes (types) relating to older people (as the victim) recorded by COPFS during this period?*
4. *How many cases were referred to the COPFS Victim and Witness Information and Advice Service?*

We do endeavour to provide information whenever possible. However, in this instance the costs of locating, retrieving and providing the information requested would exceed the upper cost limit of £600. Under Section 12 of FOISA public authorities are not required to comply with a request for information if the authority estimates that the cost of complying would exceed the upper cost limit, which is currently set at £600 by Regulations made under Section 12.

The Crown Office and Procurator Fiscal Service's case management database is a live, operating database. It is designed to meet our business needs in relation to the processing of criminal cases, and the information within it is structured accordingly. We do not have a separate database, and hold only operational data needed for business purposes, ie to prepare court documentation; to send and receive electronic information regarding court appearances and results; to cite witnesses; to deal with issues relating to disclosure of information to the defence etc.

In order to provide the information requested, Crown Office staff would be required to consider individually each report submitted in relation to allegations of harm, neglect or abuse to ascertain the age of the victim and the time taken to complete this task would exceed the upper cost limit.



Scottish prosecutors have been issued with guidance which sets out how COPFS will deal with crimes against older people who are victims or witnesses of crime. The Older Person's Policy has been made public, on the COPFS website and I attach a link to that Policy for your information:

http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Guidelines_and_Policy/Older%20Persons%20Policy%20Oct%202013.pdf

If you are dissatisfied with the way in which your request has been handled, you do have the right to ask us to review it. Your request should be made within 40 working days of receipt of this letter and we will reply within 20 working days of receipt. If you require a review of our decision to be carried out, please e-mail us at foi@copfs.gsi.gov.uk

The review will be undertaken by staff not involved in the original decision making process.

If our decision is unchanged following a review and you remain dissatisfied with this, please note that although generally under section 47(1) of FOISA there is a right of appeal to the Scottish Information Commissioner, where the information requested is held by the Lord Advocate as head of the systems of criminal prosecution and investigation of deaths in Scotland, under section 48(c) no application can be made as respects a request for review made to the Lord Advocate. The information you have requested appears to fall into that category, although ultimately it would be for the Commissioner to decide whether that was the case should you refer the matter to her.

In circumstances where section 48(c) does not apply and the Commissioner accepts an appeal, should you subsequently wish to appeal against that decision, there is a right of appeal to the Court of Session on a point of law only.

Yours sincerely

