



Freedom of Information Response

Our reference: FOI 24-0227

Responded to: 15 February 2024

Your recent request for information is replicated below, together with our response.

I would like to ask Police Scotland and the Crown office and the Scottish Government for an explanation please, in relation to the £11,000 issue with Mr Mathesons expenses claim

Now under Scottish Law, what he did was a criminal offence and he should have been charged, not creating the false expenses claim, as that was just dishonest, but it is well documented that he submitted it, meaning he submitted a falsified document portraying it to be true and accurate, and he has since later admitted this was a false claim. This was a deliberate attempt to defraud the public purse, a crime that the COPFS is required to take very seriously and in previous cases has prosecuted such matters.

Under Scottish Law, that is the crime of fraud & uttering and he should have been charged with that but Police took no further action in relation to a complaint.

Now there can only be 3 reasons for that:

- 1. Police Scotland did not investigate it properly in line with the law of Scotland**
- 2. There was Political interference from the First Minister**
- 3. The Lord Advocate has interfered and gave instruction to not proceed with any prosecution.**

The reason i am asking for an explanation from each service is because if this was a member of joe public, they would have been charged and prosecuted with some form of fraud charge, and it also leads to the point that if anyone has a current conviction for the same offence, attempting to issue falsified documents to obtain money, then they would be in a position to challenge that conviction. Also similar cases in the past for such attempts to defraud the public purse have been prosecuted, so there is a big question over why this Minister was not prosecuted.

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This was the public purse he tried to defraud to the tune of £11,000, money he was not entitled to claim and has subsequently admitted the claim was false. the Intent was there to defraud the public purse, but you took no action - that wasn't legal and the public have the right to have Ministers in post that can be trusted but we also have the right to have services in place that when they are required to uphold the law, that they actually comply with the laws of Scotland and people are held accountable

What this looks like is one rule for Government Ministers and a different rule for everyone else, and Ministers are not above the law.

So can each service confirm its involvement in the matter and the legal reason why no action proceeded against the Minister when a criminal offence has been committed while in Public Office?

I dont require great detail, but there was never an actual legal reason provided as to why no proceedings took place against the minister, who submitted a false expenses claim and attempted to obtain £11,000 of public funds he wasn't entitled to.

So why was no action taken against a minister, but if this was a member of Joe public, they would have been referred to the Crown office for potential prosecution.

Whats the legal reason why this did not proceed? I think all services must provide a separate explanation as you're all supposed to be independent of each other so if each service could provide what they did in this matter and why it has not proceeded to a legal charge and the legal reason why, that would be great, it is in the public interest that there is more transparency from all of you over this matter and why no action was taken over a very serious matter that if it occurred in any other office environment, it would be a sackable offence as its Gross Misconduct, and this is worse as its in public office.

If the services are unable to provide a proper explanation as to why a crime committed in public office was not prosecuted, then it will be a requirement that the matter is fully reviewed in the public interest, that was a criminal offence committed while in public office by a Scottish Minister and the behaviour of all 3 of you stinks of cover up, the Scottish Public have the right to expect you all to act with honesty and integrity and therefore a fuller explanation is required from you all.

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The option is also available to the Scottish Public to ask an English Police force to investigate the matter if we feel Police Scotland are not being compliant with their duty or if they are being influenced or interfered with by the Scottish Government and the Lord Advocate.

Its obviously a matter the Government want to cover up, however it was a serious abuse of position by the Minister and it was a criminal offence, so doing nothing and there being no punishment is a no no for the Scottish public.

I can advise that Police Scotland does not hold the above requested information. In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

As you will be aware an individual's right in terms of the legislation is to obtain information held by a public authority at the time a request is received and there is no obligation on them to create new information specifically for this request.

By way of explanation, Police Scotland do not hold any recorded information that meets the terms of your information request.

To be of assistance I have provided a comment released by Police Scotland in November 2024:

"A complaint which had been received has been assessed and no further action will be taken by Police Scotland at this time."

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](#), 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](#) 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.