| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-1308  Responded to: xx May 2024 |
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Your recent request for information is replicated below, together with our response.

## Whether any current or former police officers involved in or connected to the Sheku Bayoh Inquiry have been provided with protection measures, including but not limited to; a. Panic alarms. b. Close protection. c. Other forms of security measures or assistance.

## If such protection measures have been provided: a. Please specify the number of individuals who have received these measures. b. Detail the nature of the protection provided to each individual (e.g., panic alarms, close protection). c. Clarify whether the protection measures were supplied directly by Police Scotland or through contractors or external service providers. d. Provide any relevant documentation or policies outlining the criteria for determining eligibility and the procedures for providing protection measures.

## Additionally, please disclose the total costs associated with providing protection measures to current or former police officers related to the Sheku Bayoh Inquiry for the past two years, broken down by fiscal year if possible.

Having considered your request, we have taken the decision to engage section 18 of the Act and refuse to confirm or deny whether the information sought is held by Police Scotland.

Section 18 applies where the following two conditions are met: -

It would be contrary to the public interest to reveal whether the information is held

- If the information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act.

Section 18 provides that an authority does not have to confirm whether or not information is held where; if the information were held, it would be considered exempt from disclosure in terms of any of sections 28 to 35, 38, 39(1) or 41 of the Act; and disclosing whether or not information is held would be contrary to the public interest:

Section 38(1)(b) - Personal Data

Section 35(1)(a) & (b) - Law Enforcement

Section 39(1) - Health and Safety

Section 34(1)(b) - Investigations

In accordance with the conditions above, Police Scotland can neither confirm nor deny that it holds the information you have requested.

Simply confirming whether or not any individual is subject to Police Scotland protection significantly undermines the integrity of the protective services process.

It cannot be in the public interest for Police Scotland to confirm or deny whether *any* individual receives protection as doing so, regardless of their position, provides significant intelligence that puts them at increased risk.

*If* the information was held the following exemptions would be engaged:

Section 38(1)(b) - Personal Data

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

*‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’*

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

*‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’*

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met. The only potentially applicable condition is Article 6(1)(f) which states:

*‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data’*

I accept that you may have a legitimate interest with regards the disclosure of this information and I agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

On that basis, it is my view that disclosure of the information sought would be unlawful.

Further considerations apply as follows:

Section 35(1)(a)&(b) - Law Enforcement

The requested information, if held, could be used to try and work out how and when resources are allocated within the specialist areas of protection.

Those with criminal intent would then be in a position to more accurately estimate the resources allocated to protect such individuals.

The release of this information would provide them with an advantage over UK forces, as the information can indeed be viewed as operational 'intelligence' and is therefore operationally sensitive.

Disclosure would therefore be substantially prejudicial to the prevention and detection of crime and the apprehension and prosecution of offenders.

Section 39(1) - Health and Safety

I would first of all advise you that Police Scotland’s priority is to keep the people of Scotland safe.

Information is exempt information if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual.

As outlined, it is assessed that disclosure of the information requested, if held, would put police officers, staff and members of the public at increased risk of harm.

Section 34(2) (b) (ii) – Investigations by Scottish public authorities

Information is exempt information if held at any time by a Scottish public authority for the purposes of any other investigation being carried out – (ii) for the purpose of making a report to the procurator fiscal as respects, the cause of death of a person.

Public Interest Test

The key test when considering where the balance of public interest lies is to establish whether, in all the circumstances of the request, the public interest in confirming or denying the information is held is not outweighed by maintaining the exemption(s).

I can confirm that I have considered the public interest with regards disclosure of the information requested if it were held, and I am of the view that whilst accountability for public funds and better informing the public debate on a matter of significant concern may favour disclosure, ensuring the integrity of the protective services process as well as the safety of specific individuals is paramount.

Such measures are put in place to protect the communities that we serve.

As additional information is disclosed over time, a more detailed account of the tactical infrastructure of not only a force area such as Scotland, but also the UK as a whole, will emerge.

The risk of harm to the public would be elevated as whilst the public will be aware that protective arrangements are in place, they are unaware as to how many people/ who receives protection, nor the extent, reasons or locations where such activity may or may not take place.

Police Scotland will not release information which could place the safety of an individual at risk or undermine the effective delivery of day-to-day law enforcement.

**No inference should be taken from this response as to whether the information you have requested does or does not exist.**

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.