| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-2636  Responded to: 8 November 2024 |
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Your recent request for information is replicated below, together with our response.

## Please provide the total cost of the investigation into Ann Gloag, David McCleary and two other family members.

I can advise that Police Scotland does not hold all the above requested information.

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

By way of explanation, the total costs relating to any investigation, both relating to the investigation itself and the number of hours involved, are difficult to quantify as the nature of policing means that officers are deployed to wherever their services are most required.

Furthermore, the number of officers required throughout an investigation will fluctuate and officers involved in a particular investigation, or multiple investigations, can be redeployed to other duties at any time, dependant on their skillsets.

Police Scotland may keep limited records for investigations, which record overtime costs and non-pay costs. These costs do not provide an accurate reflection of the total number of hours spent on an investigation nor do they provide, for the reasons stated above, an accurate cost for an investigation. The costs do not include, for example, officer hours where that officer would have been on duty anyway and as such are not recorded as a specific expense to a particular investigation.

## Please also provide correspondence relating to the case between Police Scotland and the COPFS.

The information requested is considered exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided. The exemptions that I consider to be applicable to the information requested are as follows:

**Section 38(1) (b) of the Act - personal information.**

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.*

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject(s).

This is an absolute exemption and does not require the application of the public interest test.

## Section 36 (2) (b) – Confidentiality

Information is exempt information if –

(b) its disclosure by the authority so obtaining it to the public (otherwise than under this Act) would constitute a breach of confidence actionable by that person or any other person.

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

**Section 34(1) (a) (i) & (b) – Investigations by a Scottish public authority and proceedings arising out of such investigations**

Information is considered exempt information if it has, at any time, been held by a Scottish public authority for the purposes of an investigation which the authority has a duty to conduct to ascertain whether a person should be prosecuted for an offence.

This is a non-absolute exemption and requires the application of the public interest test.

**Section 33(1) (b) – Commercial Interests**

Information is exempt under section 33(1)(b) if its disclosure would, or would be likely to, prejudice substantially the commercial interests of any person. In terms of the legislation a person includes a public authority, company and partnership.

Commercial interest is not defined in the Act, however, a person’s or organisation’s commercial interests will usually relate to the commercial trading activity they undertake, commonly for the purpose of revenue generation and this activity will normally take place within a competitive environment.

In this instance disclosure of this information would be detrimental to the data owner(s) and as such is considered to be commercially sensitive.

This is a non-absolute exemption which requires the application of the Public Interest Test.

**Section 30(b) – Free and frank provision of advice or exchange of views**

Information is exempt under section 30(b) if disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation.

The exemptions in section 30(b) focus on the effect that disclosure of information would have (or would be likely to have) on the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation

The information held details thinking and deliberation on the matter of an investigation. If released, this information would substantially inhibit future enquiries, prejudicing the ability to respond effectively to sensitive issues and require the Service to assess correctly the harm in any potential future disclosure.

Releasing information into the public domain is likely to frustrate this process and would inhibit the manner in which those issues are debated, effectively undermining the ability to ensure that there is sufficient opportunity to ensure all potential concerns and viewpoints are accurately identified and addressed by those involved for fear that their comments would be released.

This is a non absolute exemption and requires the application of the public interest test.

**Section 39(1) – Health, safety and the environment**

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(s).

Whilst I appreciate the reasons why you might wish this information, I also have to consider the wider implications of the public release of such documents as a release of information under this Act is, essentially, a release of sensitive information into the public domain.

This is a non-absolute exemption and requires the application of the public interest test.

## Section 30 (c) - Prejudice to the Effective Conduct of Public Affairs.

Information is exempt information if its disclosure under the Act would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs.

In this case telephone numbers and e-mail addresses have been redacted. To release these publicly through FOI legislation could negatively impact on the operational effectiveness of Police Scotland and our partners.

While it is acknowledged that the disclosure of this information would support transparency, there are already established routes for the public to make contact with the police and our partners and disclosure would not support the effective conduct of public affairs. As a result, section 30(c) of the Freedom of Information (Scotland) Act 2002 is engaged.

This is a non-absolute exemption and requires the application of the public interest test.

**Public Interest Test**

I appreciate there is an interest in the release of such information, however this must be tempered against what is of interest to the public and what is in the public interest.

The Act does not define the public interest, however, it has been described as “something which is of serious concern and benefit to the public”, not merely something of individual interest. In other words, it serves the interests of the public.

It is in the public interest that an understanding exists as to the processes involved in police investigations, therefore, accountability and transparency relating to the actions of Police Scotland and its officers would favour disclosure of the requested information.

That said, a decision for non-disclosure follows consideration of the efficient and effective conduct of Police Scotland in relation to such investigations. Further, it is essential that information pertaining to investigations is disclosed at the correct time and where appropriate.

The Act is applicant and purpose blind and any information disclosed has to be suitable for public release. As such information gathered during an investigation and which relates to commercially sensitive information relating to a third party and which would prejudice substantially the commercial interests of that business cannot be disclosed as this would not be in the public interest.

Additionally, if individuals were unwilling to contribute to such deliberations or put forward proposals in the future fearing their initial views were publicly attributable, or in case any non-factual information was disclosed prior to matters being finalised, any efforts to achieve honest opinions, would be hindered.

If individuals were unwilling to contribute to such deliberations or put forward proposals in the future fearing their initial views were publicly attributable, or in case any non-factual information was disclosed, any efforts to achieve honest opinions, would be hindered.

Finally, Release of e-mail addresses which are not in the public domain could negatively impact on the operational effectiveness of Police Scotland and our partners. Accordingly, and to ensure that internal processes are protected this information cannot be provided.

There can be no public interest in disclosing information which would make it more difficult to offer an efficient and effective service.

Taking cognisance of the above, in this instance, the balance of the public interest test favours retention of the requested information.

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.