| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2882  Responded to: 6 December 2023 |
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Your recent request for information is replicated below, together with our response.

## I wish to make a FOI Request regarding a post currently showing on the named shift.

## I wish to know:

## 1. The post number.

## 4. In the event that the answer to Q.2 above is that the post is a normal Response post, what date did xxxxxxxxxxxxxx request transfer to xxxxxx or if he/she did not request it, the date the transfer was otherwise initiated and/or approved.

This information is considered to be 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.

I can confirm that Police Scotland holds the information requested and the exemption that I consider to be applicable to the information requested by is:

**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 set out at 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). On that basis, it is my view that disclosure of the information sought would be unlawful.

## 2. If that post is a supernumerary post or a normal Response post that has been unfilled for a period of time.

This is not a supernumerary post, it is part of the budgeted establishment.

## 3. In the event that the answer to Q.2 above is that the post is a normal Response post, how long the post has been empty.

This post was moved to the current location on 12/10/23 and was vacant until 27/11/23,

## 5. Are there currently any unfilled response posts on any xxxxxxx Response Shift, and if so how many and which Group/s are they on.

There are currently no true vacant posts in the area stipulated.

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.