| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-1967Responded to: 31 August 2023 |
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Your recent request for information is replicated below, together with our response.

## Can Police Scotland provide information that:

## Confirm that that a formal investigation was conducted by Police Scotland into historic criminal use of college resources in South Lanarkshire College?

In terms of the Freedom of Information (Scotland) Act 2002 a public authority is only obliged to provide recorded information.

Under Section 8 of the Act, information which requires opinion or a yes/no response is not in essence a valid request.

To be of assistance I can confirm Police Scotland conducted an investigation into accusations of non-recent theft at South Lanarkshire College.

## Provide the dates it commenced and when was it concluded?

This took place between June – November 2022.

## What was the nature and scope of the investigation and how many staff were interviewed by police officers?

## d) please provide a record of the findings issued as a VERBAL REPORT to SLC and the name of the recipient of the verbal report.

With regards to providing details of the investigation, in accordance with section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to disclose the above requested information.

Section 16 of the Act requires Police Scotland, when refusing to provide such information because the information is exempt, 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.

The information requested is held and the exemptions applicable are as follows:

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

Information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

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

## Public Interest Test

I appreciate there is a degree of 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.

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

That said, a decision for non-disclosure follows consideration of ongoing or likely criminal investigations and the efficient and effective conduct of Police Scotland in relation to such investigations.

Additionally, when the Freedom of Information Bill was considered by the Scottish Parliament, the then Lord Advocate stated that the exemptions detailed in section 34(1) were essential for an effective justice system.

Accordingly, to provide details of the how many people were interviewed is outweighed by the harm that could be created by revealing information.

To be of assistance, I can advise no criminality was found during this investigation.

## 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.

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](http://www.itspublicknowledge.info/Appeal), 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](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.