| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1079  Responded to: 12 June 2023 |
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Your recent request for information is replicated below, together with our response. Some of the information requested 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. 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.

**1. When was the first and each subsequent complaint of criminal activity made to Police Scotland about the SNP finances?**

The exemptions that I consider to be applicable to the information requested are as follows:

**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 may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service to enable a determination on whether criminal proceedings should be instigated and to determine 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 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.

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

## 2. From its commencement to the current date how many man/hours of Police Scotland resource been committed to the investigation, broken down by rank and department to include both the detailed investigation and public relations/media activity time?

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

In terms of Section 17 of the Act, this letter represents a formal notice that all the requested 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.

However, to be of assistance, I can confirm the recorded costs held by Police Scotland to 30 April 2023 regarding the investigation into the finances of the Scottish National Party are as follows:

Overtime Costs – £43,981.03

Finally, to be of assistance, I can provide an estimated salary costing which is based on the top point of each ranks pay scale. The estimated costs salary costs are £551,662.53 to 31 March 2023. This does not include National Insurance and pension contributions.

## 3. What is the timeline of operational command and oversight of the investigation by rank/role/division and what has the specific involvement of the Deputy Chief Constable (current and previous) been?

The exemptions that I consider to be applicable to the above requested information are as follows:

**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 may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service to enable a determination on whether criminal proceedings should be instigated and to determine 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 35 (1) (a) & (b) – Law Enforcement**

It is incumbent on Police Scotland to prevent crime and detect offenders.

Release of the information requested would adversely impact on the operational effectiveness of the Service and would compromise any tactical advantage the police may have when dealing with crime.

Disclosure of this information would, or would be likely, to prejudice substantially the prevention or detection of crime.

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

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

The safety of police officers who have to deal with crime and disorder is also a consideration. Where disclosure of the information would adversely impact on the effectiveness of the Service in preventing crime and disorder then it follows that this would subsequently increase the risk to the safety of the public and police officers.

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

**Public Interest Test**

Public awareness and accountability would favour disclosure as it would contribute to the public debate surrounding the efficient and effective use of resources by Police Scotland.

However, in contrast, there is no public interest in disclosing information which is likely to damage the efficient and effective conduct of the police service in relation to its law enforcement role, or which is likely to have an adverse impact upon officer safety.

In this instance I consider that the decision must fall in favour of preventing crime and safeguarding the health and safety of our officers. Accordingly, on balance, the public interest in disclosing the information requested is outweighed by that in maintaining the exemptions detailed above.

## 4. How many tents/gazebo/temporary structures do Police Scotland possess?

*Clarification*

*A temporary structure is one that is " not permenant"*

*It includes the following which is not exhaustive*

*1. Tents*

*2. Gazebos*

*3. Demountable moveable structures*

*4. Structures for which permenant planning permission has not been granted .*

*5. Transportable structures, including so called "iron horses"*

*6. Caravans*

*7. Motor homes*

*8. Portakabin type structures*

*9. Wooden hut transported to and from a scene.*

*10.A building or other object constructed from several parts not erected or constructed permenantly.*

*11.A Frame: made of separate members (usually thin pieces) put together*

*12. A Shell: encloses or contains its contents*

In accordance with Sections 12(1) (Excessive cost of compliance) and 16(4) (Refusal of request) of the Freedom of Information (Scotland) Act 2002 (the Act), this letter represents a Refusal Notice.

By way of explanation, the above requested information is not centrally recorded and there is no easy way to collate this. To provide this information each of the 13 police divisions and all specialist units within Police Scotland would have to be contacted and asked to collate this information for their division.

This would be a substantial task and would take well in excess of the 40 hours or £600 prescribed by the Scottish Ministers under the Act.

To be of assistance I can advise that Procurement records show that Police Scotland have one contract for shelters, however, these are for temporary structures for disaster situations. A total of 8 shelters have been purchased from this contract.

## 5. How many times have tents/gazebo/temporary structures been deployed by year and incident type since 1st January 2021?

## 6. How many times have tents/gazebo/temporary structures been erected or deployed to the site of an investigation relating specifically to alleged financial crime or fraud since 1st January 2021?

I can advise that Police Scotland does not hold information in the format requested. 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 collate information in this format.

## 7. How many individuals involved in the investigation into the SNP finances are qualified accountants or forensic accountants?

The exemptions that I consider to be applicable to the above requested information are as follows:

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

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Public awareness and accountability would favour disclosure as it would contribute to the public debate surrounding the efficient and effective use of resources by Police Scotland.

However, in contrast, there is no public interest in disclosing information which is likely to damage the efficient and effective conduct of the police service in relation to its law enforcement role, or which is likely to have an adverse impact upon officer safety.

In this instance I consider that the decision must fall in favour of preventing crime and safeguarding the health and safety of our officers. Accordingly, on balance, the public interest in disclosing the information requested is outweighed by that in maintaining the exemptions detailed above.

## 8. How many officers from Police Forces other than Police Scotland, or other external agencies, have been engaged to assist in the investigation and what has their role been broken down by force or agency?

I am refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18 of the Act.

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

If the information was held by the Service, it would be considered exempt in terms of the sections listed below:

* Section 34(1) - Investigations
* Section 35(1)(a)&(b) - Law Enforcement

To disclose whether or not information was held would confirm whether or not the circumstances referred to were in some way known to Police Scotland.

If any information were held, it would be held for the purpose of an investigation and disclosure of such information would prejudice the prevention and detection of crime and the apprehension or prosecution of offenders.

This should not, however, be taken as conclusive evidence that the information you have requested exists 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.