| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-2101Responded to: 28 August 2024 |
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I refer to your recent request for information which has not been repeated here due to the fact that it names specific individuals.

I am refusing to confirm or deny whether the personal information sought exists or is held by Police Scotland in terms of section 18 of the Act however, I can neither confirm nor deny whether any RSOs reside in the specific street referred to in your request.

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.

Whilst we acknowledge that there is a public interest in informing the public as to the housing of RSOs in their local area, the overwhelming public interest lies in protecting individuals’ right to privacy and ensuring the integrity of the RSO management process.

* If the information was held, it would be exempt from disclosure in terms of at least one exemption set out in the Act. In this instance, the exemptions set out below apply.

## 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’

Given the population level of the area in question, I am of the view that the potential for an offender to be identified is significant, making any statistical information ‘personal data’.

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, in particular where the data subject is a child’.

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.

Furthermore, the personal data in question would reveal information about an individual’s:

- criminal convictions

- offences

- related security measures

Whilst that does not in itself render the information special category personal data, it is our view that section 10 of the Data Protection Act 2018 makes clear that such information should be treated in a very similar way. Article 9 of the GDPR only allows special category data to be processed in very limited circumstances and it is assessed that none of those circumstances are relevant here.

Taking all of the above into account, it is my view that disclosure of the information sought would be unlawful.

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

Disclosure of the requested information, if held, would substantially prejudice the ability of Police Scotland with regards the prevention and detection of crime and the apprehension or prosecution of offenders.

This explanation should not be taken as indicative or conclusive evidence that the information you have requested does or does not exist.

To be of assistance, you can raise a request through [The Sex Offender Community Disclosure - Police Scotland](https://www.scotland.police.uk/advice-and-information/child-abuse/the-sex-offender-community-disclosure/)

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.