

Our Ref: IM-FOI-2022-0711  
Date: 05 April 2022



## **FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

### **Information relating to the disappearance of John Lennox Hunter**

I can confirm that I have spoken to officers in relation to the information requested and it is important to first note that although Mr Hunter has been declared dead, he still remains a missing person. As such all information held relates to a police enquiry which is still 'live' pending any new info coming to light.

Nevertheless I do appreciate the personal nature of your interest in the case and I have included some further advice in the accompanying e-mail which I hope may be of some assistance. Moreover I can confirm that the details of this particular case were reviewed last year and the reporting officer found there to be no suspicious circumstances relating to the disappearance of Mr Hunter.

Turning to the request, I must advise you that any information held 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 that you have requested.

I consider the following exemptions to be applicable:

### **Section 34 (1) (b) – Investigations**

Section 34(1)(b) of the Act provides an absolute exemption from disclosure in that 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.

There are no time limitations in this respect and this is particularly pertinent where an ongoing missing person investigation will remain open until that person is traced.

### **Section 35(1) (a) & (b) – Law enforcement**

Information is exempt information if its disclosure under this Act would, or would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

### **Section 39(1) - Health & Safety**

The information requested is exempt as its disclosure would or would be likely to endanger the health or safety of an individual(s).

*These exemptions are non-absolute and subject to the public interest test required by section 2(1) (b) of FOISA.*

### **Public Interest Test**

I do appreciate your personal interest in the release of such information: however this must be tempered against the fact that any information disclosed to you under the Act is also placed in the public domain – it becomes in effect a disclosure to the world.

Information relating to investigations will rarely be disclosed under the Act, and only when there is a very compelling public interest consideration supporting disclosure.

I also acknowledge there is a public interest in disclosing information that would inform members of the public regarding the efficiency and effectiveness of the procedures followed by the Service in missing persons cases. Where public funds are being spent on investigations, there is also a public interest in accountability and justification.

Nevertheless the process of conducting a missing person's investigation is, in the main, a confidential process.

Missing persons and their relatives are entitled to have their information protected and there would need to be an overwhelming public interest to overturn this stance. The process of investigating missing person cases is an obligation placed upon the police service by statute and this is heavily reliant upon the co-operation of many individuals to provide evidence during such investigations.

Witnesses and other sources of information do so on the understanding that the information provided will remain confidential unless they are required to give evidence in court. There is no public interest in the release of information into the public domain that could compromise the future flow of information to the police and, in turn, compromise the ability of the force to effectively fulfil its statutory obligations.

Further, and perhaps most crucially, as investigations are still ongoing, Police Scotland may, depending on the outcome of a missing person's case, have to provide documents to the Crown Office and Procurator Fiscal Service. To that end, Police Scotland will not release any data about an investigation that could prejudice the statutory function of this public authority.

## OFFICIAL

On balance, whilst I appreciate that there is a public interest in regard to how missing persons' cases are investigated, this is outweighed by the necessity to ensure that ongoing investigations are not compromised, impeded or prejudiced by the release of the data you have requested.

Updates in relation to Missing Person enquiries can also be found at the following link:

<https://www.scotland.police.uk/whats-happening/missingpersons/>

If you require further assistance or are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to [foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.