| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-0201Responded to: xx February 2024 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

**By way of background, I should state that my Freedom of Information (FOI) request concerns the Northern Constabulary investigation into the murder of Shamsuddin Mahmood at the Mumutaz Indian Restaurant in Kirkwall on June 2, 1994, and a cold case review that was undertaken in 2006-7. […..]**

**Specifically, I would like to ask:**

**1. Are the records from the original murder investigation kept separately to the records of the 2006-7 cold case review?**

I must first advise you that 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 a yes/no response is not in essence a valid request. This applies to Q1 and aspects of some of the other questions below.

**2. In what format(s) are the cold case review records kept (i.e. physical files, servers)?**

As detailed in our previous responses the materials referred to above are held in mainly paper format, across in excess of 40 file boxes, although some digital files exist.

**3. a) Does Police Scotland have an inventory list for the cold case review records - if so, can you please provide a copy of said inventory list, and/or any other list that is held regarding the cold case review records.**

There are no inventory lists to clearly identify what each of the boxes do or do not contain. On that basis section 17 of the Act applies and I can confirm that the information sought is not held by Police Scotland.

**4. Please also indicate the amount of information held from the cold case review (preferably in terms of the number of boxes of physical records, or the number of electronic files/statements).**

As inferred above, all records are held together for filing purposes.

I am therefore refusing to provide the information sought in terms of section 16(4) of the Act, as section 12(1) - Excessive Cost of Compliance - applies.

To explain, the only methodology we could utilise for your request is a manual check of every paper document within over forty paper storage boxes - as previously stated there are no inventory lists to clearly identify which documents the boxes contain. As I’m sure you will appreciate, any such task would be a huge undertaking.

Accordingly on this occasion it is assessed that the cost of locating, retrieving and providing the information sought would take over 40 hours and be in excess of the £600 cost limit.

**5. Does Police Scotland have any record of documents from the original murder investigation or the cold case review going missing or otherwise unaccounted for?**

**6. If so, please indicate the number of the documents that are not present, the kind of documents that are missing, and the reasons for this (i.e. lost, damaged, accidently destroyed).**

For ease of response Q5 and Q6 have been answered together.

At this time, there is no record of any of the case documents being missing or otherwise unaccounted for. Accordingly section 17 of the Act applies and I can confirm that the information sought is not held by Police Scotland.

It is acknowledged that a more detailed picture will become apparent as the ongoing work to catalogue the materials held is completed, but for all of the reasons above, I must again advise you that any further assessment at this time is assessed to be cost exempt.

Finally, please note that even were the cost implications not applicable for this and other similar requests, the impact of the release of this information into the public domain would have to be considered in terms of any other exemptions, for example Section 38(1)(b) - Personal Data, Section 34(1)(b) – Investigations etc..

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.