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Our Ref: IM-FOI-2022-2196  
Date: 11<sup>th</sup> November 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.

### **How long was Michael Reilly temporary inspector in the east division and how long has he been stationed in Levenmouth?**

I am refusing to provide you with the information sought in terms of section 16 of the Freedom of Information (Scotland) Act 2002.

Section 16 requires Police Scotland when refusing to provide such information because it 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.

I can confirm that Police Scotland holds the information that you have requested.

The exemption that I consider to be applicable to the information requested by you is 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'*

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'*

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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.

On that basis, it is my view that disclosure of the information sought would be unlawful.

**How many complaint investigations was he responsible for, before mine?  
Was he responsible for any [since 2017], when he sat me in a room and threatened me it would be detrimental to "CASE" to ahead with my complaint?**

Officer Reilly is listed as an Investigating/ Enquiry Officer for a total of 15 Complaints against the police recorded during the period 1 January 2017 to 27 October 2022.

**And how many cases, EXACTLY, has he been involved in for, complaints or investigation within Levenmouth since 2017? And St. Andrews?**

With regard to the 15 complaints against the police referred to above, 2 were while based at Levenmouth, 13 while based at St Andrews.

If by 'or investigation' you are asking how many *criminal investigations* officer Reilly has been involved in then I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

**Regarding "verbal statements" the very same officers I complained about obtained, and ignored my lawyer. Was a call log from "taxi centre" obtained when a "verbal statement" was obtained from the taxi driver? Crime reference [redacted]  
This information (the kc reference) was obtained when i walked into [redacted] as the accused person and your officers had months to colluded up to 08/06/21**

It appears you are asking for information regarding a particular investigation you may have been involved in and on that basis, in terms of section 18 of the Act, Police Scotland can neither confirm nor deny that it holds the information sought.

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If the information was held it would be considered exempt in terms of one or more of the exemptions listed below:

- Section 38(1)(a) - First party personal data
- Section 34(1) - Investigations
- Section 35(1)(a)&(b) - Law enforcement

To disclose whether or not information was held would confirm the involvement of a named individual (you) in a police matter. More generally, it would also confirm the existence of information relating to that matter.

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.

**Ongoing from the current issues I have with your service.**

**Treat this as necessary and I expect you to be forthcoming.**

**Is the chief inspector of fife proud of his officers?**

**You have ruined my life, its scary what you lot managed to achieve.**

**The sooner the 111 single recommendations made in an independent inquiry are implemented the better, the police will never change.**

**It's very dangerous when your stopped in your own garden, searched, officers have lied and I've exhausted all avenues for the truth.**

**Your officers dug in but the truth will out.**

**The Police cannot, Police THE POLICE.**

**You police by consent, Public confidence. You've shattered mine.**

**I've got all the time in the world to deal with this and I look forward to your response.**

These parts of your correspondence does not seek access to recorded information and so have not been progressed in terms of FOI legislation.

You may wish to consider submitting a complaint against the police - details can be found on our [website](#).

Should you require any further assistance please contact Information Management quoting the reference number given.

If you 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.police.uk](mailto:foi@scotland.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.

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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.

