

Our Ref: IM-FOI-2022-1120
Date: 21 June 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 (The Act).

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

Please could you provide me with any and all information that you hold relating to the following deceased individual:

Age: Five weeks

Gender: Unknown (described as male in media reports)

Nationality: Chinese

Date of death: 26/09/2020

Cause of death: States died in hospital after illness

Location: Glasgow, Scotland

Housing provider: Mears

To assist you, Police Scotland said of this death: "Officers were called to Ravelston Street in Glasgow at around 5.05pm on Saturday, 26 September, 2020, after a baby had taken unwell. The Scottish Ambulance Service attended and the baby was taken to Queen Elizabeth University Hospital where he sadly later died. There were no suspicious circumstances and a report was submitted to the Procurator Fiscal."

Please ensure that the provided information includes:

(a) The deceased baby's name (I remind you that "The UK GDPR only applies to information which relates to an identifiable living individual. Information relating to a deceased person does not constitute personal data and therefore is not subject to the UK GDPR" [Source: ICO](#))

(c) The report that was submitted to the Procurator Fiscal (I remind you that you may make redactions but the cost of doing so does not normally count towards the cost exemption)

(e) The baby's cause of death

In accordance with section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to disclose the above requested information.

Section 16 of the Act requires Police Scotland, when refusing to provide such information because the information 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.

The information requested is held and the exemptions applicable are as follows:

Section 38(1) (b) Personal Information

The information requested is exempt from disclosure as it contains personal data relating to living individuals including their names.

The release of this information to a third party would breach the requirement to process personal data fairly, as laid down by the Data Protection Act 2018.

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

Section 34(2) (b) Investigations by a Scottish Public Authority

The information requested was gathered and is held by Police Scotland in relation to an investigation carried out for the purposes of making a report to the Procurator Fiscal as respects the cause of death of a person.

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

Section 39(1) Health, Safety and the Environment

Information is exempt if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual. Whilst I appreciate the reasons why you might wish to understand the events surrounding the death, I also have to consider the wider implications of the *public* release of such information as a release of information under this Act is, essentially, a release of information into the public domain.

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

Public Interest Test

The Act does not define the public interest, however, it has been described as “something which is of serious concern and benefit to the public”, not merely something of individual interest. It has also been described as “something that is “in the interest of the public”, not merely “of interest to the public.” In other words, it serves the interests of the public.

In this instance Police Scotland have issued a brief statement which advised of the death of a child and confirmed there were no suspicious circumstances. If we were to disclose additional information, it would cause extreme distress to the deceased’s next of kin, who will be trying to come to terms with the loss of a child.

Accordingly I would contend that there is no public interest in the disclosure of such sensitive information which was gathered for the purposes of an investigation into a

sudden death. The information attracts multiple exemptions and the public interest test has to favour retention of the information requested.

I am conscious that you will be disappointed with this response, however, I would ask that you note, that Police Scotland publish all responses to information requests on our website and as such information is put in the public domain. As I am sure that you can appreciate, for the reasons stated above, a public disclosure of such sensitive information by means of the Act would not be appropriate.

I have attached below a link to an appeal dealt with by the Scottish Information Commissioner which may be of some interest to you:

[Decision063-2012.pdf \(itspublicknowledge.info\)](#)

(b) The reason(s) why officers were called to Ravelston Street

I would refer you to the press release issued by Police Scotland which stated - "A Police Scotland spokesperson said: "Officers were called to Ravelston Street in Glasgow at around 5.05pm on Saturday, 26 September, 2020, after a baby had taken unwell. The Scottish Ambulance Service attended and the baby was taken to Queen Elizabeth University Hospital where he sadly later died. There were no suspicious circumstances and a report was submitted to the Procurator Fiscal."

(d) Notes, if any, relating to the call Police Scotland made to the Immigration Command and Control Unit in relation to this death on 27/9/2020

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
Whilst we accept that you may have a particular personal interest in being informed as to whether or not the information sought is held, the overwhelming public interest lies in protecting individuals' right to privacy and the expectation of confidence that the public have in Police Scotland as regards their information. As stated above disclosures in terms of Freedom of Information legislation are public disclosures of information and the legislation is not therefore appropriate when it comes to particular personal matters/ specific investigations.
- 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.

In this instance, section 34(2)(b) of the Act applies insofar as you have requested information which, if held, would be held for the purposes of an investigation for the purpose of making a report to the Crown Office and Procurator Fiscal Service as respects the cause of death of a person.

Further, sections 38(1)(b) and 38(1)(2A) of the Act apply insofar as you have requested third party personal data which is exempt from disclosure where it is assessed that

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disclosure, if the information is held, would contravene the data protection principles as defined in the Act.

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

Should you require any further assistance please contact Information Management - Glasgow at – foi@scotland.police.uk – 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 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 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.