

Our Ref: IM-FOI-2022- 2359
Date: 05 December 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.

I wish to know the total amount of money that was spent accommodating three named senior officers in N Division. I understand that the property was privately rented and would like to know the costs of total rent, council tax and bills associated during the time it was rented by Police Scotland in 2022 and 2023.

I refer to your recent request for information which has not been entirely replicated above as it named specific individuals.

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with information relating to this specific incident report.

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:

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'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'

I appreciate that this response may be disappointing but in every case, including those instances to which you refer, I can confirm that those arrangements will be provided due to circumstances *and not the rank* of individual officers.

Accordingly any such release would publish personal data which is protected in law and would set a precedent for any similar request in the future. On that basis, it is my view that disclosure of the information sought would be unlawful.

To be of some assistance I can provide some further context around this subject matter:

The provision of officer accommodation and / or related expenses are considered on a case by case basis in accordance with the requirements of the service.

The Scottish Police Authority (SPA) own and lease a number of properties in remote and rural areas for 'hard to fill locations and/or posts' as it is recognised there is a need in order to recruit and retain staff. Those elements are covered by the Remote and Rural Working Groups, which sit both strategically and tactically and the purchase of such properties are approved by SPA Chief Executive. The property to which you refer is an example of this process.

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.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.

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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.