

Our Ref: IM-FOI-2022-1078
Date: 01 July 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.

Following the decision of Police Scotland to pay Rhona Malone nearly £1 million following the decision of an employment tribunal that she had been subjected to harassment, bullying and victimisation because she was women whilst working within the firearms unit could you please let me know the following:

1. The cost to Police Scotland of defending the action before and during the tribunal. Please include the cost of;

a) Legal advice and services

The cost of legal advice and services from 2018 (when the Employment Tribunal claim was commenced) to date is £117,617.37.

b) The cost of the time of officers and employees

Your request for information has now been considered and I can advise you that Police Scotland does not hold the information requested by you in relation to specific costs in relation to police officer and police staff hours.

In terms of Section 17(1) of the Act, this letter represents a formal notice that information is not held.

By way of explanation, Police Scotland does not record the staffing costs for any specific operation or investigation. Police officers and staff who work on a particular investigation could be drawn from different areas of the Service, based on their skillsets and the nature of policing means that officers and staff will be deployed to wherever their services are most required.

The Division or Department to which individual officers or staff belong meet the cost of their core time. There will be officers or staff who were involved in these investigations as part of their routine daily duties and others who contribute but are redeployed to other duties within the same time period.

2. The number of police officers within the firearms unit that have faced disciplinary action, or other forms of censure for their bullying, and the nature of the action

taken. If no action has been taken against officers, please provide details on the decision not to take such action.

The term Bullying is not something that is defined legally but our Equality, Diversity and Dignity Procedure reference the ACAS definition, which our procedures broadly align to:

Bullying can be described as unwanted behaviour from a person or group that is either:

- offensive, intimidating, malicious or insulting
- an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

We wrote to you on 7th June providing the definition above and explaining that all allegations against our officers are defined and recorded under ten specific categories which were provided to you within the link;

Our Standards of Professional Behaviour - Police Scotland, i.e.

Allegation Type Description:

- Authority, Respect and Courtesy
- Challenging and Reporting Improper Conduct
- Confidentiality
- Discreditable Conduct
- Duties and Responsibilities
- Equality and Diversity
- Fitness for Duty
- Honesty and Integrity
- Orders and Instructions
- Use of Force

We asked you to further refine your request accordingly but you chose not to provide any further clarification.

For that reason in the specific context of '*for their bullying*', in terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

3. Whether the officer and employee found by the tribunal to have failed to provide proper evidence, and in the case of the HR official to have been less than honest and reliable have faced disciplinary action, and if so, the outcomes. If no action has been taken, please provide the details on the reason they have not.

4. Whether any other officer or employee of Police Scotland has been subjected to disciplinary action in relation to this case.

To avoid repetition, our response to both Q3 & Q4 is provided below;

Having considered your request in terms of the Freedom of Information (Scotland) Act 2002, 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.

- 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 these instances, 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 disclosure would contravene the data protection principles as defined in the Act.

This explanation should not be taken as indicative or conclusive evidence that the information you have requested does or does not exist.

5. Details of what action Police Scotland is taking to ensure it will in future comply with the law with regards employment.

People procedures are routinely assessed to ensure legal compliance and Advisory Staff are available for managers to support complex employment matters. Managers who have people responsibilities are given access to a range of opportunities to support them in ensuring competence to deal with their people.

To be of further assistance, I have included a link to an independent review of the Employment Tribunal judgement conducted by the Police Service of Northern Ireland.

Published on 22nd June 2022, this report provides an independent review of the Employment Tribunal's decision and makes recommendations for action by Police Scotland in relation to performance, conduct, or culture.

<https://www.scotland.police.uk/what-s-happening/news/2022/june/employment-tribunal-judgment-independent-review/>

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 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.

OFFICIAL

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.