| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-2972Responded to: 14 December 2023 |
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Your recent request for information is replicated below, together with our response.

**I am writing to find out more information on Inspector Stewart Andrew who previously served as an Inspector in Kirkcaldy for the Fife Division of Police Scotland.**

**Newspaper reports have shown that he was convicted of stalking a fellow police officer earlier this year.**

[**Stalker cop who harassed fellow officer slapped with 12 month contact ban...**](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.dailyrecord.co.uk%2Fnews%2Fscottish-news%2Fstalker-cop-who-harassed-fellow-29332209&data=05%7C01%7Cfoi%40scotland.police.uk%7C595effab33f843e1b23208dbe5ec4eb7%7C6795c5d3c94b497a865c4c343e4cf141%7C0%7C0%7C638356575325222221%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=F3IxvOWqjKyEO8gJEM5XZrwd8VGfdQbtjgWEaeWvtWs%3D&reserved=0)

[**Scottish policeman fined £1,000 after turning up at ex girlfriend's house uninvited...**](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.edinburghlive.co.uk%2Fnews%2Fedinburgh-news%2Fscottish-policeman-fined-1000-after-26358293&data=05%7C01%7Cfoi%40scotland.police.uk%7C595effab33f843e1b23208dbe5ec4eb7%7C6795c5d3c94b497a865c4c343e4cf141%7C0%7C0%7C638356575325222221%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=Efvxh2tT0MAqC1lx6HGEvnc9jKKxR7zeunbWe8I%2BVKc%3D&reserved=0)

[**Top Dundee murder cop guilty of stalking faces career ruin...**](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.thecourier.co.uk%2Ffp%2Fnews%2Fcourts%2F4181185%2Fdundee-murder-police-stalking-guilty%2F&data=05%7C01%7Cfoi%40scotland.police.uk%7C595effab33f843e1b23208dbe5ec4eb7%7C6795c5d3c94b497a865c4c343e4cf141%7C0%7C0%7C638356575325222221%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=g5r3Umat91naKoUew8PHMRb5h%2FOTbPrdmWB2cqf%2F58s%3D&reserved=0)

**Please could I have more information on the follow questions;**

1. **What was Inspector Stewart Andrew formally charged with by the Sheriff Court?**

I can confirm that the information sought is held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the exemption outlined at section 38(1)(b) of the Act applies - 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’*

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 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, I do not agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

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

It is also assessed that the exemptions outlined at sections 34(1)(b) and 35(1)(a)&(b) apply.

1. **Was there any evidence of domestic violence as claimed by the media?**
2. **Was Inspector Stewart Andrew dismissed following his conviction?**

I am refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18. 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 the information sought is held, the overwhelming public interest lies in protecting individuals’ right to privacy and their expectation of confidence 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 this instance, 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 (see explanation above)

It is also assessed that the exemptions outlined at sections 34(1)(b) and 35(1)(a)&(b) apply.

1. **Can an officer continue to serve with Police Scotland after being charged with a crime?**

Yes, an officer can continue to serve with Police Scotland after being charged with a crime.

1. **What is the standard procedure following a criminal conviction within Police Scotland?**

Where a serving officer has been convicted of a criminal offence, the circumstances are referred to the Professional Standards Department National Conduct Unit and assessed under [the Police Service of Scotland (Conduct) Regulations 2014](https://www.legislation.gov.uk/ssi/2014/68/contents/made) to ascertain if there has been a breach of the [Standards of Professional Behaviour](https://www.scotland.police.uk/about-us/who-we-are/our-standards-of-professional-behaviour/).

The final outcome, including a potential determination of up to dismissal without notice, will be proportionate to the specific circumstances that led to the conviction.

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.