| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-0728  Responded to: 17th May 2023 |
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Your recent request for information is replicated below, together with our response.

**Please provide copies of the following:**

**Communications sent by and received by the following in respect of the delay in implementation of the Hate Crimes and Public Order (Scotland) 2021 Act:**

**Assistant chief constable Gary Ritchie during the period December 2021 to March 2022 Deputy chief constable Fiona Taylor during the period July 2022 to October 2022**

**In addition, any communications sent in response to these communications and the communications to which these communications were responding.**

Please find attached the requested information.

I must advise that it has been necessary to withhold some of the information requested, therefore, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

* states that it holds the information,
* states that it is claiming an exemption,
* specifies the exemption in question and
* states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information you have requested and the exemption that I consider to be applicable is set out at:

* Section 30(b) – free and frank provision of advice or exchange of views
* Section 30(c) - Prejudice to the Effective Conduct of Public Affairs
* Section 38(1)(b) – Personal Information

**Section 30(b) – free and frank provision of advice or exchange of views**

Information is exempt under sections 30(b) if disclosure would, or would be likely to, inhibit substantially:

(i) the free and frank provision of advice (section 30(b)(i)) or

(ii) the free and frank exchange of views for the purposes of deliberation (section 30(b)(ii)).

The provision of advice between senior officers and partner agencies in relation to a specific subject matter, as well as the exchange of views on both operational and corporate considerations take place routinely for much of our policing business. This documents our thinking and deliberation on the issues raised and our final decision making.

If released, those deliberations, including the subject matter discussed would be substantially inhibited, prejudicing the ability to respond effectively to sensitive issues and require the Service to assess correctly the harm in any potential future disclosure.

Pre-empting these decisions by releasing information into the public domain is likely to frustrate this process and would inhibit the manner in which those issues are debated, effectively undermining the ability to ensure that there is sufficient opportunity to ensure all potential concerns and viewpoints are accurately identified and addressed.

## Public Interest Test

It could be argued that there is a public interest in disclosure of such information as it would contribute to greater transparency and openness.

That said, disclosure would harm the efficiency and effectiveness of the Service and the flow of information to the Service would be harmed by release of such information. If individuals were unwilling to contribute to such deliberations or put forward proposals in the future fearing their initial views were publicly attributable, or in case any non-factual information was disclosed prior to matters being finalised, any efforts to achieve honest opinions, would be hindered and as such the balance of the public interest test favours retention of the information.

## Section 30 (c) - Prejudice to the Effective Conduct of Public Affairs.

Where necessary some internal names / telephone numbers and email addresses have been redacted. To release these details publicly through FOI legislation could negatively impact on the operational effectiveness of various departments and external partner agencies. While it is acknowledged that the disclosure of this information would support transparency and better inform the public as to how the Service conducts its business, there are already established routes for the public to make contact with the police and the disclosure of these additional details would not support the effective conduct of public affairs. As a result, section 30(c) of the Freedom of Information (Scotland) Act 2002 is engaged.

**Section 38(1)(b) – Personal Information**

Any information that could lead to the identification of individuals has been redacted. This is in accordance with Section 38(1)(b) of the Freedom of Information (Scotland) Act 2002 –Personal Information.

This mainly relates to the name and email addresses of persons who are outside Police Scotland and any staff member within Police Scotland of a more junior role (below the rank of Superintendent or Head of Department). Those of a more senior rank have been included as it is deemed within the public interest to do so.

As such, the processing would be unfair and unlawful in respect of the individuals concerned and would therefore be in breach of the first principle of the Data Protection Act 2018. This is an absolute exemption, which does not require a public interest test to be conducted.

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](mailto:foi@scotland.police.uk) 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](mailto:enquiries@itspublicknowledge.info) 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.