

Our Ref: IM-FOI-2022-0069
Date: 24 February 2021



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. Please accept my apologies for the delay in responding.

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

Any correspondence (including emails, attachments, typed or handwritten notes, letters, notes/records of phone calls, minutes of meetings, briefings, WhatsApp messages or otherwise) between Police Scotland and the Scottish Government regarding the 2022-23 Scottish Government budget. Please limit correspondence dates to between 1 September 2021 and 24 December 2021.

I have attached separately 24 files and 8 attachments. You will note that some information has been redacted. In relation to the redactions this information is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act).

Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

Section 38(1) (b) Personal Information

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 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'

The information requested is exempt from disclosure as it contains personal data relating to living individuals. Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject(s).

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

Section 30(b) Prejudice to effective conduct of public affairs

Information is exempt if its disclosure under this Act would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation.

The exemptions in section 30(b) focus on the effect that disclosure of information would have (or would be likely to have) on the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation.

This is a non-absolute exemption which requires the application of the Public Interest Test.

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

Information is exempt information if its disclosure under the Act would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs. In this instance the telephone number and e-mail address cannot be disclosed. To release these details publicly through FOI legislation could negatively impact on the operational effectiveness of Police Scotland and our partners. The phone numbers and email addresses are used for operational/business purposes and this information has been removed in order to ensure that internal processes are protected.

This is a non-absolute exemption which requires the application of the Public Interest Test.

Public Interest Test

It is accepted that there is a public interest in the disclosure of the information on the basis that it could lead to greater transparency and public debate.

That said it can be argued that 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, the

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proper purpose of such deliberation and any efforts to achieve honest opinions, would be hindered.

Further and with regards to contact details there are already established routes for the public to make contact with Police Scotland and partner agencies. Disclosure of this information would be likely to adversely affect the processes that have been put in place, in order to provide an appropriate level of service. There are already various ways in which the public can contact Police Scotland with a specific section of their websites dedicated to this, and to that end the public interest has been met and the disclosure of these additional details would not support the effective conduct of public affairs. As a result, section 30(c) of the Act is engaged.

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

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.