| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 25-1038Responded to: 11 June 2025 |
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Your recent request for information is replicated below, together with our response. Please accept my apologies for the delay in responding.

**Yesterday, the 21st of March 2025, Police Scotland published the following announcement on it’s social media platforms about Operation Branchform:**

**“Following direction from the Crown Office and Procurator Fiscal Service, criminal enquiries into two people arrested as part of the investigation into the funding and finances of the Scottish National Party have now concluded.
The 73 year-old man arrested on 18 April, 2023, and the 54 year-old woman arrested on 11 June, 2023, have not been charged and are no longer under investigation”.
Based on this announcement I would like to request the following:**
1. Confirmation of the date and time the Crown and Procurator Fiscal Service informed Police Scotland that criminal enquiries into the two people had ended.
In other words, when exactly was this told to Police Scotland?
2. Confirmation of the date and time the news that the enquiries had concluded were communicated to the two people that the statement refers to.
In other words, on what date and time was the 54 year old woman and the 72 year old man informed they were no longer being investigated.
Please make it clear for both people the date and time this was communicated. Please also if possible reveal the way they were both informed (letter, phone call, in-person etc)

The information requested is considered to be exempt. Section 16 of the Freedom of Information Act (Scotland) 2002 (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. The exemption that I consider to be applicable to the information requested is as follows:

**Section 34(1) (a) (i) – Investigations by a Scottish public authority**

Information is considered exempt information if it has, at any time, been held by a Scottish public authority for the purposes of an investigation which the authority has a duty to conduct to ascertain whether a person should be prosecuted for an offence

This is a non-absolute exemption and requires the application of the public interest test.

**Public Interest Test**

I appreciate there is an interest in the release of such information: however, this must be tempered against what is of interest to the public and what is in the public interest.

The Act does not define the public interest, however, it has been described as “something which is of serious concern and benefit to the public”, not merely something of individual interest. In other words, it serves the interests of the public.

It is in the public interest that an understanding exists as to the processes involved in police investigations and in their relative success. This is particularly true in investigations, therefore, accountability and transparency relating to the actions of Police Scotland and its officers would favour disclosure of the information.

That said, when the Freedom of Information Bill was considered by the Scottish Parliament, the then Lord Advocate stated that the exemptions detailed in section 34(1) were essential for an effective justice system.

In addition, Section 34, has no harm test and information will be exempt from disclosure simply because it has, at some point, been held by an authority for any of these purposes listed.

Accordingly, I can find no public interest in the disclosure of the requested information.

The following exemption will also apply:

**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:

*‘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.*

Whilst I accept that you may have a legitimate interest with regards the disclosure, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject(s).

Accordingly, it is my view that disclosure of the requested information would be unlawful.

3. Confirmation of the date on which the Crown and Procurator Fiscal service came to the conclusion the two people were no longer under investigation. In other words, the day that decision was officially made.
4. Confirmation that the two people referred to in the statement wouldn't have been told in an informal or unofficial manner by the Crown and Procurator Fiscal Service prior to the public announcement.

I can advise that Police Scotland does not hold the above requested information.

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

By way of explanation, the Crown and Procurator Fiscal would have to be contacted to request information for questions 4 & 5.

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](https://www.foi.scot/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.