| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2353  Responded to: 1 December 2023 |
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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.

## Please supply me with all correspondence relating to the ‘cash for seats’ referral between Police Scotland and Manchester police. As this is not a live investigation this can be shared (I have checked this with the Press team).

A search of our recording systems has identified 8 e-mails and 2 attachments which meet the terms of your request. In this instance 5 emails are considered unsuitable for disclosure. The 2 attachments are considered to be exempt in their entirety and the remaining 3 e-mails have been redacted.

In relation to the material we consider 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. The exemptions that I consider to be applicable to the information requested are as follows:

**Section 26 (c) - Prohibitions on disclosure**

Information is exempt information under this section if its disclosure would constitute, or be punishable as, a contempt of court. Further, disclosure would substantially risk prejudicing what is an ongoing and live investigation.

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

**Section 34(1) (a) (i) & (b) – Investigations by a Scottish public authority and proceedings arising out of such investigations**

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 may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service.

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

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

In this case an internal phone numbers and e-mail addresses have been redacted. To release these details publicly through FOI legislation could negatively impact on the operational effectiveness of the relevant department within Police Scotland and with our partners. 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.

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 that is “in the interest of the public”, not merely “of interest to the public.” 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, it is essential that information pertaining to investigations is disclosed at the correct time and where appropriate, to ensure that neither the investigation nor the potential for proceedings to be brought against an individual(s) are put at risk.

**Section 38(1) (b) of the Act - 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 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 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.

This is an absolute exemption and requires the application of the public interest test.

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.