

# Decision Notice

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## **Decision 250/2014: Mr Tom Minogue and the Chief Constable of the Police Service of Scotland**

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### **Property recovered by the Police**

Reference No: 201401977

Decision Date: 4 December 2014



Scottish Information  
Commissioner

## Summary

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On 30 May 2014, Mr Minogue asked the Chief Constable of the Police Service of Scotland (Police Scotland) for copies of all correspondence held relating to the recovery of a gold wreath. Police Scotland withheld the information on the basis that it was held for the purposes of civil proceedings brought by or on behalf of the authority.

Following an investigation the Commissioner accepted that Police Scotland was entitled to withhold the information requested by Mr Minogue.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (6) (General entitlement); 2(1)(b) (Effect of exemptions); 34(1)(b) and (4) (Investigations by Scottish public authorities and proceedings arising out of such investigations)

Human Rights Act 1998 (HRA) section 6(1) (Acts of public authorities)

European Convention on Human Rights (ECHR) Article 6

The full text of each of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

## Background

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1. In October 2010, during a police operation, Lothian and Borders Police (one of the statutory predecessors of Police Scotland) came into possession of a gold wreath (the wreath), recovered at an address in Edinburgh. This was the subject of a criminal investigation.
2. On 27 December 2012, Lothian and Borders Police received confirmation and instruction from the Lord Advocate that no criminal proceedings would be taken in respect of the wreath, which was to be returned to its owner. Ownership was to be determined by multiplepointing (a form of civil legal action raised to determine competing claims to the same property).
3. In March 2013, David Strang QPM, then Chief Constable of Lothian and Borders Police, raised a multiplepointing action in the Court of Session (as instructed by the Lord Advocate) for the delivery of the wreath to the person found entitled to it. The action was defended by those claiming a right to the wreath, being the person from whom it had been seized and the Republic of Turkey.
4. As a result of the Police and Fire Reform (Scotland) Act 2012, Sir Stephen House QPM, Chief Constable of the Police Service of Scotland, became the statutory successor to the Chief Constables of the previous eight Scottish police forces, including the Chief Constable of Lothian and Borders Police.
5. On 4 March 2014, the Court of Session substituted Sir Stephen House QPM, the Chief Constable of the Police Service of Scotland, as the pursuer in the multiplepointing.
6. Mr Minogue joined the action as an additional defender in May 2014, pursuing arguments of his own in relation to the ownership of the wreath.

7. On 30 May 2014, Mr Minogue wrote to Police Scotland and (with reference to correspondence relating to the wreath) requested the following information:  
“... copies of all correspondence held by Police Scotland or their predecessors relating to the above including correspondence relating to reports commissioned abroad”.
8. Police Scotland responded on 9 June 2014. Referring to the ongoing civil action (the multiplepinding), they informed Mr Minogue that they considered the information he sought to be exempt from disclosure in terms of section 34(4) of FOISA. They explained why they were withholding the information under this exemption, with reference to the public interest.
9. On 10 June 2014, Mr Minogue wrote to Police Scotland, requesting a review of their decision. He did not accept that Sir Stephen House was pursuing the multiplepinding as or on behalf of a Scottish public authority, and provided reasons why he believed disclosure of the information to be in the public interest.
10. Police Scotland notified Mr Minogue of the outcome of their review on 17 July 2014, confirming their original decision without modification. They provided Mr Minogue with further explanation regarding their consideration of the public interest test. They also suggested that he might obtain the same information (for himself alone, as opposed to public disclosure under FOISA) through the process of commission and diligence as part of the ongoing civil proceedings: this, they suggested, would address the public interest arguments he had put forward in relation to his right to a fair hearing.
11. On 6 August 2014, Mr Minogue wrote to the Commissioner. He applied to the Commissioner for a decision in terms of section 47(1) of FOISA. Mr Minogue stated he was dissatisfied with the outcome of Police Scotland’s review because he believed he needed the information for the purposes of his claim in the multiplepinding.

## Investigation

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12. The application was accepted as valid. The Commissioner confirmed that Mr Minogue made a request for information to a Scottish public authority and asked the authority to review their response to that request before applying to her for a decision.
13. On 8 August 2014, Police Scotland were notified in writing that Mr Minogue had made a valid application. The case was allocated to an investigating officer.
14. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. Police Scotland were invited to comment on this application and answer specific questions. They were asked to justify their reliance on any provisions of FOISA they considered applicable to the information requested, with particular reference to the requirements of section 34(4).
15. Police Scotland responded, acknowledging that not all of the information had been obtained or recorded for the purposes of civil proceedings (as required by section 34(4) of FOISA). In addition to section 34(4), therefore, they also wished to apply the exemptions provided under sections 34(1)(b), 35(1)(a) and (b), and section 38(1)(b) of FOISA. They provided submissions in support of each exemption.
16. Mr Minogue was informed that Police Scotland were also relying upon the additional exemptions and was given the opportunity to comment. Mr Minogue objected to the additional exemptions being considered by the Commissioner, as Police Scotland had not raised these either in their initial response or at review. It was explained that the

Commissioner considered herself obliged, as a matter of natural justice, to consider any relevant points raised by either party during her investigation, a view to which she adheres in this decision. It was pointed out that he was being given the opportunity to comment on these additional exemptions.

17. Mr Minogue responded with submissions regarding the application of section 34(4) of FOISA, but declined to comment on the additional exemptions applied by Police Scotland.

## **Commissioner's analysis and findings**

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18. In coming to a decision on this matter, the Commissioner considered all of the relevant information and submissions, or parts of submissions, made to her by both Mr Minogue and Police Scotland. She is satisfied that no matter of relevance has been overlooked.
19. In his application to the Commissioner, Mr Minogue submitted that he considered it likely that the wreath which was the subject of the multiplepinding was brought to this country by the Earl of Elgin in 1811. He believed this and other items to have been obtained by violation of sepulchre: in his view, therefore, they were held illegally and should be returned to Greece.
20. Mr Minogue also submitted that he had a right of access to information relating to the wreath under the Data Protection Act 1998 (the DPA), noting that he required the information for the purposes of civil proceedings, and elements of it would relate to previous complaints to Fife Constabulary in relation to the wreath referred to in paragraph 19. The Commissioner has no jurisdiction to consider Mr Minogue's rights under the DPA, but would note that any of the withheld information which was his own personal data would be absolutely exempt from disclosure under FOISA, by virtue of section 38(1)(a).
21. The Commissioner is satisfied that the information withheld in this case falls within two categories:
  - a) information relating to the police operation in which the wreath was recovered, the referral of the matter to the procurator fiscal and the outcome of that referral and;
  - b) information subsequently obtained by Police Scotland for the purposes of the multiplepinding.

### **Section 34(1)(b) and (4) of FOISA (Investigations by Scottish public authorities and proceedings arising out of such investigations)**

22. Police Scotland withheld most of the information on the basis that it was exempt from disclosure under section 34(1)(b) of FOISA. This states that information is exempt information if it has at any time been held by a Scottish public authority for the purposes of an investigation, conducted by the authority, which in the circumstances may lead to a decision by the authority to make a report to the procurator fiscal to enable it to be determined whether criminal proceedings should be instituted.
23. Police Scotland also relied upon section 34(4) of FOISA, to withhold information that it did not consider exempt in terms of section 34(1)(b). Section 34(4) provides that information is exempt information if obtained or recorded by a Scottish public authority for the purposes of civil proceedings, brought by or on behalf of the authority, which arise out of such investigations as are mentioned in section 34(1) or (3).
24. These are class-based exemptions. In other words, provided the information falls within the description in the relevant exemption, it will be exempt from disclosure. There is no harm test to be passed before the exemptions are engaged. Section 34 exemptions are, however,

subject to the public interest test in section 2(1)(b) of FOISA. Before the information can be withheld, the public interest in disclosing it must be outweighed by that in maintaining the exemption.

25. The Commissioner will first of all consider the exemption in section 34(1)(b) of FOISA.

### **Section 34(1)(b)**

26. In applying section 34(1)(b), Police Scotland submitted that the wreath came to the attention of the police in 2010. At this point, it was believed that the wreath might have been stolen and a criminal enquiry was instigated by Lothian and Borders Police. Following the criminal enquiry, a report was submitted to the Procurator Fiscal.

27. Police Scotland explained that, on 27 December 2012, Lothian and Borders Police received confirmation and instruction from the Lord Advocate that “... *no criminal proceedings are instructed and L & B Police are instructed to release the crown [wreath] to the owner – this will be determined by raising a multiplepoinding*”.

28. As a result of the instruction from the Lord Advocate, Police Scotland explained, the criminal enquiry stopped and the civil case commenced. Therefore, Police Scotland submitted, the information was initially held for the purposes outlined in subsection 34(1)(b) of FOISA.

29. The Commissioner has considered that any information held by Police Scotland in relation to the wreath, prior to the instruction from the Lord Advocate, was held by them for the purposes set out in section 34(1)(b) of FOISA and is therefore exempt information for the purposes of that exemption.

30. As mentioned above, section 34(1)(b) of FOISA is subject to the public interest test.

### **Public interest test – section 34(1)(b)**

#### *Submissions by Police Scotland*

31. Police Scotland acknowledged the public interest in disclosure, as releasing the information would increase transparency and assist the public’s understanding of the police enquiry into this matter. They also acknowledged that it would allow public scrutiny of the evidence gathered.

32. On the other hand, Police Scotland argued that witnesses had an expectation of confidence with regard to the information they provided to the police and how this information would be handled. Police Scotland believed failure to guarantee that confidentiality, other than for criminal proceedings, would discourage members of the public from contacting the police to report offences, from providing statements to support police reports to prosecuting authorities and from otherwise co-operating with the police to bring offenders to justice.

33. They further submitted that this matter might become the focus of a criminal enquiry in the future, for example on conclusion of the civil case. If another party were to consider looking into whether criminality had occurred, Police Scotland might be required to hand over any evidence to another jurisdiction or assist with their enquiry, and therefore needed to protect its integrity so that any future proceedings were not jeopardised.

34. On balance, Police Scotland believed the detriment to the police’s role in investigating crime and law enforcement, as a result of disclosure, outweighed any benefits of disclosure in terms of transparency and confidence in the criminal justice system.

35. They concluded that they could not support the release of case-related information which could put at risk the public’s confidence in how such material would be handled and

disclosed. They submitted that to do so would set a harmful precedent and have a wider impact than this specific case. They believed they must ensure that the information was protected, in case it was required for any other criminal (or indeed, civil) matters in the future.

#### *Submissions by Mr Minogue*

36. As indicated above, Mr Minogue declined to comment on Police Scotland's application of this exemption.

#### *The Commissioner's conclusions*

37. In considering the public interest, the Commissioner must bear in mind that disclosure under FOISA is disclosure to the public and not just to the requester.
38. In this case, the Commissioner accepts that there is a general public interest in disclosure of the information under consideration, so that the actions of the police might be scrutinised, contributing to transparency and accountability. In particular, disclosure would aid understanding of the police investigation of such cases and contribute to ensuring that the police are adequately discharging their functions.
39. However, the Commissioner also recognises that the inclusion of section 34 in FOISA reflects an inherent public interest in ensuring the proper and effective conduct of police investigations, and investigations of a similar nature. It is clearly in the public interest that the various investigatory processes making up the criminal justice system are not hampered without good reason.
40. The Commissioner also accepts that there are strong arguments supporting the view that it is in the public interest to preserve the confidentiality of information held in relation to the investigation of a crime or potential crime. In general, it will not be in the public interest to disclose information if this would undermine the confidence of the public in that part of the justice system, and in the maintenance of confidentiality in relation to such information.
41. In all the circumstances, and bearing in mind that she has been offered no public interest arguments specific to Mr Minogue's case, the Commissioner has concluded that the public interest in maintaining the exemption in section 34(1)(b) of FOISA in relation to the withheld information outweighs the public interest in disclosing that information.
42. The Commissioner considers that any benefit which might follow from disclosure of the withheld information is outweighed by the very considerable public interest in ensuring that prejudice of the kinds described in paragraphs 39 and 40 is not caused. She accepts that such prejudice would be likely to follow from disclosure of the information to which Police Scotland applied section 34(1)(b) of FOISA.
43. Police Scotland were therefore correct in their application of section 34(1)(b) of FOISA to withhold information.

#### **Section 34(4)**

44. The Commissioner will now consider whether section 34(4) of FOISA applies to the information withheld by Police Scotland under this exemption. In order for this exemption to apply, the Commissioner has to be satisfied:
- that the information was obtained or recorded by a Scottish public authority for the purposes of civil proceedings;
  - that those legal proceedings were brought by or on behalf of the authority;

- that those legal proceedings arose out of such investigations as are mentioned in section 34(1) or (3) of FOISA.
45. Police Scotland submitted that Mr Strang (as the Chief Constable of Lothian and Borders Police) originally brought the proceedings, following the instruction from the Lord Advocate. Police Scotland provided the Commissioner with a copy of the original summons and the adjusted Open Record. This shows amendments were made to reflect the organisational changes within Police Scotland (i.e. the change of organisation and Chief Constable) and Mr Minogue's interest as third defender.
  46. Police Scotland further submitted that while Mr Strang and Mr House were named within these documents, they were considered to be acting in their professional capacity, not as private individuals. They explained that the process required an individual to be named. It confirmed that neither Mr Strang nor Mr House had a personal interest in the item in question.
  47. Taking account of the circumstances outlined above, Police Scotland submitted that the withheld information, insofar as not exempt under section 34(1)(b) of FOISA, was obtained or recorded for the purposes of these civil proceedings (i.e. the multiplepinding), which they considered to have been brought by or on behalf of a Scottish public authority. They further submitted that the proceedings arose out of a criminal investigation, as described above in the consideration of section 34(1)(b).
  48. The Commissioner accepts that the multiplepinding arose out of the criminal investigation described above, which was an investigation of the kind mentioned in section 34(1)(b) of FOISA. This is clear from the circumstances of the investigation and the Lord Advocate's instruction to raise the action.
  49. In his requirement for review and in his submissions to the Commissioner, Mr Minogue disputed that the civil action had been brought by or on behalf of an authority, but by Mr Strang and Mr House as individuals and not by a public authority. As such, he argued that section 34(4) did not apply.
  50. Mr Minogue referred the Commissioner to the Court of Session Rules which govern actions of multiplepinding. Chapter 51 (in particular 51.2) states:
 

"An action of multiplepinding may be brought by any person holding, or having an interest in, or claim on, the fund *in medio* [in this case, the wreath], in his own name."
  51. He submitted that there was no provision in the Court of Session Rules for an action of multiplepinding to be brought by an authority. The action, he submitted, must be brought by a named individual. Therefore, in his view, Mr House did not raise the action on behalf of Police Scotland, because under the rules he could not do so. In accordance with the rules, he did so as an individual. Following this reasoning, he could not accept that section 34(4) applied – the proceedings were not brought by or on behalf of an authority.
  52. On the other hand, Mr Minogue acknowledges that the Court of Session is the proper body to define what its own rules mean. The Commissioner must be careful to interpret the rules only to the extent necessary to apply the provisions of FOISA properly. Having considered the matter carefully, she has concluded that it is not necessary for her to determine whether the Court of Session Rules allow an action of multiplepinding to be brought by or on behalf of an authority, if "authority" is interpreted to mean some form of body corporate with its own legal personality. In relation to the operational functions of Police Scotland, there is no such body designated in Schedule 1 to FOISA.

53. For these purposes, as in the case of the eight predecessor police forces, the relevant Scottish public authority is the Chief Constable (see Part 6 of Schedule 1). The Chief Constable has no legal personality in a professional capacity which is separate from his legal personality as an individual. The Chief Constable (then Mr Strang) raised the action, and the Court later accepted the substitution of Mr House as pursuer. In each case, the Chief Constable is designed at such, with reference to his business address. There would appear to be no doubt from the court process that the action is being pursued by the Chief Constable professionally and not in a private capacity. The Court appears to have accepted this without demur. In all the circumstances, therefore, the Commissioner is satisfied that the action was brought by a Scottish public authority – the Chief Constable of the Police Service of Scotland.
54. Having considered all of the submissions on this exemption, the Commissioner is satisfied that all of the requirements set out in paragraph 44 above have been met. Therefore, she is satisfied that Police Scotland were entitled to apply the exemption in section 34(4) of FOISA to the remainder of the withheld information. She must now go on to consider the public interest test.

### ***Public interest test – section 34(4)***

#### *Submissions by Police Scotland*

55. Police Scotland acknowledged that disclosure of the information would better inform the public's knowledge of both the civil action and the previous criminal investigation. Disclosure would thus support transparency and accountability, especially in relation to such an unusual item and enquiry. They also acknowledged that Mr Minogue had a personal interest in the information in question, given his involvement in the civil action.
56. Police Scotland went on to argue that it must ensure that the civil case was conducted appropriately, to ensure that the item was returned to its rightful owner. As a result, they submitted, it would be inappropriate to release into the public domain any information which might later be relied on as evidence. They stated that to disclose the information could undermine the process, and prejudice the civil case.
57. Further (and crucially, in their view) Police Scotland submitted that there was a more appropriate route for case-related information to be provided to interested parties such as Mr Minogue, as explained to Mr Minogue in their review outcome of 17 July 2014 (i.e. commission and diligence, as part of the court process).
58. Police Scotland stated that they could not circumvent established legal procedures by releasing this type of information under FOISA. They did not believe the legislation was intended to be used in this way, submitting that the section 34 exemption was deemed "essential for an effective justice system".
59. Police Scotland concluded that the greater public interest lay in ensuring the civil case was conducted properly and in accordance with the Scottish legal process. Therefore, they believed the balance of the public interest favoured the exemption being maintained.

#### *Submissions by Mr Minogue*

60. Referring to his belief that the wreath was an item obtained by Lord Elgin from Greece in the 19<sup>th</sup> Century, Mr Minogue highlighted the potential interest of the Greek Government. He wished the item to be returned to its proper home, wherever that might be. He highlighted that wreaths of this type were widely used in all the countries now bordering the



Mediterranean Sea and submitted there was a public interest in making all efforts to establish which country it came from: there may be valid claims from countries other than Turkey.

61. Highlighting what he perceived to be bias on the part of Police Scotland in favour of the Turkish Government (one of those defending the action and claiming a right to the wreath) and consequent collusion, Mr Minogue explained why he considered it important that he (as another defender) should have the right to see correspondence relating to the wreath, and particularly to its connections with Turkey. He referred to his right to a hearing, under article 6 of ECHR.
62. Mr Minogue explained that he was an equal party in the eyes of the law to the civil action, and that article 6 of the ECHR provided a right to a fair trial, which was considered fundamental to the rule of law and to democracy itself. He went on to submit that the right applied to both criminal and civil cases. It was absolute, he argued, and could not be limited, requiring (amongst among other things) a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The applicant in a civil action, he argued, must have a real opportunity to present his or her case, or challenge the case against them. This, he believed, would require access to an opponent's submissions, procedural equality and (generally) access to evidence relied on by the other party and an oral hearing.
63. Mr Minogue argued the same rights should be available to all parties to the action, and that failure to provide him with the information requested (being information accessible to other parties) was a breach of his convention rights. He considered the public interest in this civil case to be paramount, and to favour disclosing the extent to which the police cooperated with other agencies/governments, so that the process by which the court determined the multiplepinding could be seen to be free of political interference.
64. Mr Minogue also referred to the regime for disclosure of information in criminal cases, under the Criminal Justice and Licensing (Scotland) Act 2010, and also to paragraphs 2 and 3 of article 6 of the ECHR. He believed the same principles should apply in civil cases. These are, however, provisions applying specifically to criminal proceedings and the Commissioner can identify no basis on which it would be appropriate to consider their relevance here.
65. Mr Minogue considered himself to be substantially disadvantaged in the multiplepinding by being deprived of vital information of which two of the three other parties had direct and detailed knowledge.
66. In support of his argument that his article 6 rights were being compromised, Mr Minogue referred to the case of *Kerojarvi v Finland*, where (in his view) a lack of disclosure of information to an unrepresented applicant was seen to render the proceedings unfair:  
[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57941#{\"itemid\":\[\"001-57941\"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57941#{\)

#### *The Commissioner's conclusions*

67. The Commissioner notes that the *Kerojarvi* case relates to information which was not provided during Court proceedings and not to a failure to disclose information under Freedom of Information law. As indicated above, the implications of public disclosure under Freedom of Information Law may be different.
68. The Commissioner does accept, however, that Article 6(1) rights extend to civil as well as criminal proceedings. She accepts the multiplepinding involves the determination of Mr Minogue's civil rights: the Court of Session has allowed him to be a party to the action. What

is not so apparent is why disclosure of the withheld information under FOISA should be necessary to ensure these proceedings are fair.

69. Clearly, Mr Minogue is concerned about potential claims to the wreath from countries other than Turkey, particularly Greece. The multiplepinding has been duly advertised. Mr Minogue responded to that advertisement and became a party to the action: governments, in addition to that of Turkey, represented by diplomatic missions in the United Kingdom could, presumably, have done the same if they believed themselves to have an interest in the wreath. Mr Minogue has not explained how he is really in a position to pursue the potential claims of any of these governments.
70. Determination of the true owner of the wreath is now a matter for the Court of Session. The Commissioner defers to the Court in relation to its ability to perform that function. In doing so, she presumes it will cast an appropriately sceptical and impartial eye over any dealings between Police Scotland and the Republic of Turkey, whether inappropriate or not. Again, Mr Minogue has not made it clear what his access to the withheld information would add to that process.
71. Mr Minogue will have the opportunity to make relevant submissions to the Court on the matters he is concerned about. The Court will, presumably, give these due consideration. Should he wish to pursue a motion for commission and diligence as part of the current proceedings, the Court could consider whether access to the withheld information (without placing it in the public domain, which would be the effect of disclosure under FOISA) would indeed be necessary in the interests of fairness. From the submissions she has received, however (as indicated above), it is not entirely clear why the public interest in this case should require disclosure under FOISA.
72. Having considered carefully all of the relevant submissions, therefore, the Commissioner has concluded that the public interest in maintaining the section 34(4) exemption outweighs the public interest in disclosure of the information. The Commissioner therefore concludes that Police Scotland were correct in their application of section 34(4) of FOISA to withhold the remaining information.
73. As the Commissioner is satisfied that the exemptions in section 34(1)(b) and 34(4) applies to all of the information withheld by Police Scotland, the Commissioner is not required to consider any of the other exemptions applied by Police Scotland to the withheld information.

## Decision

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The Commissioner finds that the Chief Constable of the Police Service of Scotland complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Minogue.

## **Appeal**

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Should either Mr Minogue or the Chief Constable of the Police Service of Scotland wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

**Margaret Keyse**  
**Head of Enforcement**

**4 December 2014**

### Freedom of Information (Scotland) Act 2002

#### 1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (6) This section is subject to sections 2, 9, 12 and 14.

#### 2 Effect of exemptions

- (1) To information which is exempt information by virtue of any provision of Part 2, section 1 applies only to the extent that –

...

- (b) in all the circumstances of the case, the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

...

#### 34 Investigations by Scottish public authorities and proceedings arising out of such investigations

- (1) Information is exempt information if it has at any time been held by a Scottish public authority for the purposes of-

...

- (b) an investigation, conducted by the authority, which in the circumstances may lead to a decision by the authority to make a report to the procurator fiscal to enable it to be determined whether criminal proceedings should be instituted; or

...

...

- (4) Information is exempt information if obtained or recorded by a Scottish public authority for the purposes of civil proceedings, brought by or on behalf of the authority, which arise out of such investigations as are mentioned in subsection (1) or (3).

## Human Rights Act 1998

### 6 Acts of public authorities

- (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

...

## European Convention on Human Rights and Fundamental Freedoms

### Article 6

- 1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

...

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