

# Decision Notice

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## **Decision 104/2018: Mrs Margaret Archibald and the Chief Constable of the Police Service of Scotland**

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### **Incidents and speed monitoring on the B977**

Reference No: 201800210

Decision Date: 11 July 2018



## Summary

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Police Scotland were asked about reported incidents and speed monitoring on a stretch of the B977. Police Scotland disclosed some information and stated that they did not hold any other relevant information.

The Commissioner was asked to decide whether Police Scotland held further information. By the end of the investigation, the Commissioner was satisfied that Police Scotland had carried out appropriate searches and did not hold any other relevant information.

## Relevant statutory provisions

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Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Notice that information is not held)

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. On 22 November 2017, Mrs Archibald made a request for information to the Chief Constable of the Police Service of Scotland (Police Scotland):
  - Details of all reported incidents on the B977 Balmedie to Belhelvie road in the period 1 January 2016 to date.
  - Details of all speed monitoring on the B977 Balmedie to Belhelvie road in the period 1 January 2015 to date. If possible this should include the type of monitoring, the number of motorist[s] found to be speeding and how they were dealt with and the specific location of the monitoring.
2. Police Scotland responded on 19 December 2017. They indicated that there were no recorded road traffic incidents or collisions from 1 January 2015 to 30 June 2017 on the B977 Balmedie to Belhelvie. One road traffic speeding offence had been recorded in 2016. Police Scotland gave notice, in terms of section 17(1) of FOISA, that they did not hold the other information which Mrs Archibald had requested (the outcome of the speeding offence).
3. Later that day, Mrs Archibald emailed Police Scotland requesting a review of their decision on the basis that they had not provided information for the full time period specified in her request. She also believed that the information Police Scotland had provided was incorrect, and noted that she herself had reported numerous incidents, and was aware that there had been speed monitoring on at least three occasions.
4. Police Scotland notified Mrs Archibald of the outcome of their review on 23 January 2018. They provided further explanation as to why they did not hold any other relevant information and responded to some of the points raised by Mrs Archibald in her request for review. They confirmed that the figures relating to speeding offences included the data for the full calendar year 2017. Police Scotland informed Mrs Archibald that the only road traffic collision that had resulted in a casualty had been in January 2014. They noted that data from the last quarter

of 2017 was not held at the time of her request “due to the process of extrapolation from legacy management systems”.

5. On 31 January 2018, Mrs Archibald applied to the Commissioner for a decision in terms of section 47(1) of FOISA. She was dissatisfied with the outcome of Police Scotland’s review noting that she herself had reported numerous accidents and incidents and had provided sufficient evidence for two drivers to be questioned and possibly charged.

## **Investigation**

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6. The application was accepted as valid. The Commissioner confirmed that Mrs Archibald made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to him for a decision.
7. On 27 February 2018, Police Scotland were notified in writing that Mrs Archibald had made a valid application.
8. 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. These questions focussed on the searches undertaken by Police Scotland and the information they held. Police Scotland responded on 6 April 2018.
9. Aspects of Police Scotland’s submissions were clarified during the investigation. In particular, Police Scotland were asked to provide the Commissioner with a copy of the raw data relating to the incidents that had occurred (and had been recorded by Police Scotland) on the roads in the vicinity of the B977 Balmedie to Belhelvie road.

## **Commissioner’s analysis and findings**

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10. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both Mrs Archibald and Police Scotland. He is satisfied that no matter of relevance has been overlooked.
11. In terms of section 1(4) of FOISA, the information to be provided in response to a request under section 1(1) is that falling within the scope of the request and held by the authority at the time the request is received. This is subject to qualifications, but these are not applicable in this case. If no such information is held by the authority, section 17(1) of FOISA requires the public authority to give the applicant notice in writing to that effect.
12. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining this, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority. He will also consider, where appropriate, any reason offered by the public authority to explain why the information is not held.

### *Police Scotland’s submissions*

13. Police Scotland’s submissions focused on three sets of data: road traffic collision data; road traffic incident data; and speeding offence data.

## **Part 1 of request: details of reported incidents**

14. Police Scotland submitted that road traffic collision data is captured in a series of disparate recording systems across Scotland. The data varies significantly across the various divisions and systems and it therefore requires some consolidation work before it can be used as the basis for analysis.
15. On a quarterly basis, each division draws raw data from their local system and sends this (excel or access) information to a point of contact in the Analysis and Performance department. The data is reviewed to ensure that there is an accurate and comparable data set for Scotland. This "mapping" process ensures that the data is useable for the generation of accurate statistical information and a comparable data set for every division of Police Scotland is thereafter sent to the central analysis and performance team.
16. Police Scotland provided a copy of the raw data for the incidents that had been recorded for the area encompassing the B977 Balmedie to Belhelvie. They noted that the information is a combination of factors: primary road number, northings/eastings and a free text description.
17. Police Scotland asserted that prior to completing the quarterly mapping process (described above), the Force Analysis and Performance department has no access to these data.
18. Police Scotland were asked to expand further on their submission that the raw data on road traffic collisions undergoes quality assurance before data can be extracted and is not held by Police Scotland for the purposes of FOISA.
19. In their submission of 8 June 2018, Police Scotland accepted that it would be incorrect to say that they do not hold the recent raw statistical data. They acknowledged that, in theory, they could search the original raw data right up to the present day as well as searching the mapped, consolidated version which is produced on a quarterly basis. Police Scotland considered that there might well be accuracy issues with searching the raw data, but they accepted that, in terms of FOI, that would not be an automatic bar to disclosure.

### *The Commissioner's conclusions*

20. The Commissioner has examined the raw data spreadsheet provided by Police Scotland and is satisfied that it does not include any records of incidents taking place on the B977 Balmedie to Belhelvie road during the period covered by Mrs Archibald's request.
21. On the basis of the submissions provided and the searches which Police Scotland had conducted by the end of the investigation, the Commissioner is satisfied that Police Scotland does not hold information covered by part 1 of Mrs Archibald's request. The Commissioner is satisfied that, in line with section 17(1) of FOISA, Police Scotland were correct to inform Mrs Archibald that they did not hold the requested information.

## **Part 2 of the request: information on speed monitoring**

### *Police Scotland's submissions*

22. In their review response, Police Scotland indicated that speed monitoring forms part of the day-to-day responsibilities of Roads Policing officers and was not specifically recorded; therefore, no information could be provided on any speed monitoring that had been undertaken on the B977.
23. Police Scotland explained to the Commissioner that the Roads Policing Unit records data for vehicles which have been stopped on priority routes for various offences, but such activity on

non-priority routes is recorded simply as “other location”. The B977 is not a priority route, and details of where and when every speed check has been conducted are not recorded.

24. Police Scotland explained that if a speeding offence was detected by officers, there might be an associated fixed penalty notice or report to Crown Office and Procurator Fiscal Service (COPFS) which detailed the location, but otherwise their attendance at a particular location would not be recorded.
25. In searching their databases, Police Scotland found only one relevant recorded incident of speeding (in 2016), the details of which had been disclosed to Mrs Archibald. They suggested that if Mrs Archibald could recall when she had phoned the police to report a speeding incident, they could conduct a search of their records.
26. Police Scotland commented that if a person reporting an incident had done this by telephoning “101”, there would be no guarantee that their call would have resulted in an incident being “raised”. If they phoned “999”, then an incident was likely to be raised, but then it would be dependent on how the operator coded the incident. Even if the operator recorded a road traffic incident, it would not be possible to identify the incident (as relevant to Mrs Archibald’s request) if the operator did not include the road number in the record.
27. Police Scotland stated they had contacted the local officer for recollections of speeding incidents on the named stretch of road. The officer could not recall any speed enforcement activity in relation to the B977 Balmedie to Belhelvie road and noted that it was not a priority route; as a result, it would not receive a lot of attention from police crews. This officer stated that the Road Policing Unit does not own or have direct access to a speed monitoring device. He submitted that speed surveys requests following a community concern would be made through the local authority.
28. Police Scotland were asked for further explanation of speed survey activities, including planned speed surveys. They explained that speed surveys are not undertaken by Police Scotland: they are carried out by local authorities (possibly the roads department). They explained that surveys assist by monitoring the speed and volume of traffic, allowing the local authority to take action such as changes to road layout, signs and markings, traffic calming, or a reduction in speed limit. The purpose of a speed survey (or traffic survey as they tend to be known) is not to detect speeding offences.

#### *The Commissioner’s conclusions*

29. The Commissioner can only consider what information is actually held by Police Scotland, not what information they might be expected to hold.
30. Having considered all the relevant submissions and the information requested by Mrs Archibald, the Commissioner is satisfied that Police Scotland took adequate, proportionate steps to establish whether they held any more information falling within the scope of her request. He accepts that the road in question is not a priority route, and that speed monitoring by Police Scotland is therefore likely to be minimal. He notes that speed surveys are generally undertaken by the local authority and, if a speed survey has taken place, then it may be the local authority which holds relevant information.
31. Taking all of the above into consideration, the Commissioner is satisfied, on the balance of probabilities, that Police Scotland does not (and did not, on receiving the request), hold any more information falling within the scope of Mrs Archibald's request, in relation to speed monitoring activities on the B977 Balmedie to Belhelvie road.

## **Decision**

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The Commissioner finds that, in respect of the matters specified in the application, Police Scotland complied with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mrs Archibald.

## **Appeal**

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Should either Mrs Archibald or Police 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**

**11 July 2018**

### 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.

...

(4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.

...

#### 17 Notice that information is not held

(1) Where-

(a) a Scottish public authority receives a request which would require it either-

(i) to comply with section 1(1); or

(ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),

if it held the information to which the request relates; but

(b) the authority does not hold that information,

it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.

...

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