

16 March 2010

Your Ref:

Our Ref: 0049/10

Michael Traill

Email:-  
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Dear Mr Traill

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0049/10**

I refer to your request for access to information made under the terms of the Freedom of Information (Scotland) Act 2002 (hereinafter referred to as 'the Act') and the response dated 22 February 2010 from John Cameron of the Freedom of Information (FOI) Unit. In accordance with the Act, the Review Panel (hereinafter referred to as 'the Panel') convened on 10 March 2010 to consider your request for a review of that decision and in terms of Section 21(4)(a) of the Act, has upheld the original decision made without modification.

The response to your request cited exemptions relating to **Section 34(1)(a) & (b) and (3) – Investigations by a Scottish Public Authority;** **Section 35(1)(a) & (b) – Law Enforcement** and **Section 39(1) – Health, Safety and the Environment** and after consideration, each exemption was upheld.

The Panel noted that your original request was for

*'information relating to payments made to informers during 2009.*

*Please provide a breakdown of each transaction for each informer and for what reason the money was provided'.*

In his response to you on 22 February 2010, John Cameron advised you – by way of assistance – of the total payments made to CHIS by Strathclyde Police for the financial year 2008/09.

The Panel noted that in your request for a review you state:-

*'I cannot see it being out of order to expect an overall figure be provided for 2009 instead'*

The Panel considered that this had not been your initial request – had it been your request it would have been explained to you that the Force do not hold the information for the 2009 calendar year. In accordance with guidance from the Office of the Scottish Information Commissioner (OSIC), and published decision notices, if an organisation does not hold the information requested, it should not then attempt to create information for the purposes of a request. As stated, it was by way of assistance, that the available figure, for 2008/09, was provided. The Panel noted that Mr Cameron, in his letter of 22 February 2010, referred you to the Scottish Information Commissioner's decision on a similar request (037/2009) as he noted this may be of some assistance to you. For your information, I note the website address; <http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.asp>

I refer to your further comments regarding the use of CHIS and would refer you to the website of the Office of the Surveillance Commissioner, [http://www.surveillancecommissioners.gov.uk/docs1/osc\\_annual\\_rpt\\_2007\\_08.pdf](http://www.surveillancecommissioners.gov.uk/docs1/osc_annual_rpt_2007_08.pdf) and to the Code of Practice under the terms of the Regulation of Investigatory Powers (Scotland) Act 2000, <http://www.scotland.gov.uk/Publications/2003/03/16694/19530>

If, after receiving the decision of the Panel, you are not satisfied, you are entitled to make an application for decision to the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife FY16 9DS, telephone number 01334 464610.

Yours sincerely

Sheena Brennan  
Force Disclosure Manager/  
Acting Head of Information Management