

Our Ref: IM-FOI-2021-0249
Date: 6th May 2021



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

1. Any application you made in 2019 or 2020 to be a “Stonewall Diversity Champion” or to be included on Stonewall’s “Workplace Equality Index,” including any attachments or appendices to those applications. Please redact personal details if necessary.

Please be advised that information regarding information regarding background checks is publicly available.

As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information sought. Section 16 requires Police Scotland when refusing to provide such information because it is exempt, 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.

I can confirm that Police Scotland holds the information that you have requested and the exemption that I consider to be applicable is set out at Section 25(1) of the Act - information otherwise accessible:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”

I can confirm that the information requested is available through our disclosure log. I have attached a direct link to the relevant document below:

<https://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log/2021/february/20-1731-equality-diversity-stonewall-champion-process-consultations-on-policy-2018-19/>

Please note that this log provides the 2017 return for the 2018 accreditation, the 2018 return for the 2019 accreditation and the 2019 return for the 2020 accreditation. These are the most recent applications available as Stonewall elected not to run the workplace

equality index in 2021 due to the Covid-19 pandemic. I must therefore advise that in regards to your request for a 2020 return for the 2021 accreditation, Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

2. Any feedback you received in 2019 or 2020 from Stonewall in relation to either application or programme.

I must respond in terms of Section 16 of the Freedom of Information (Scotland) Act 2002 however, I am refusing to provide you with this information. Section 16 requires Police Scotland when refusing to provide such information because it is exempt, 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.

I can confirm that Police Scotland holds the information requested. The exemptions that I consider to be applicable are:

Section 30(b) – free and frank provision of advice or exchange of views
Section 33(1)(b) - Commercial Interests

Section 30(b) – free and frank provision of advice or exchange of views

Information is exempt under sections 30(b) if disclosure would, or would be likely to, inhibit substantially:

- (i) the free and frank provision of advice (section 30(b)(i)) or
- (ii) the free and frank exchange of views for the purposes of deliberation (section 30(b)(ii)).

The provision of advice from Stonewall to Police Scotland and the ways in which we can improve in regards to diversity is a large part of our Stonewall accreditation. The guidance received helps to inform and direct Police Scotland and is seen as an invaluable tool in becoming a more inclusive organisation.

If released, those deliberations and advice, including the subject matter discussed would be substantially inhibited, prejudicing the ability to respond effectively to sensitive issues and require the Service to assess correctly the harm in any potential future disclosure. Similarly Stonewall may refuse to provide further advice if it was clear this would be made public with the risk that their competitors may use this information to their advantage.

Pre-empting these decisions by releasing information into the public domain is likely to frustrate this process and would inhibit the manner in which those issues are debated, effectively undermining the ability to ensure that there is sufficient opportunity to ensure all potential concerns and viewpoints are accurately identified and addressed.

Public Interest Test

It could be argued that there is a public interest in disclosure of such information as it would contribute to greater transparency and openness.

That said, disclosure would harm the efficiency and effectiveness of the Service and the flow of information to the Service would be harmed by release of such information. If individuals were unwilling to contribute to such deliberations or put forward proposals in the future fearing their initial views were publicly attributable, or in case any non-factual information was disclosed prior to matters being finalised, any efforts to achieve honest opinions, would be hindered and as such the balance of the public interest test favours retention of the information.

Section 33(1)(b) - Commercial Interests

Whilst Stonewall is a charity, the accreditation process is run on a commercial basis. The information requested is a specific part of the contract details with Police Scotland and the service provider. As you may be aware Police Scotland do have choice in regards to which organisation they use to assist with improving our policies and processes on this matter.

On review, the feedback provided by Stonewall provides sufficient information that their scoring and weighting system can be reverse engineered should a competitor wish to do so. This risk is heightened if multiple requests are made to various organisations and a mosaic approach used to build up a picture of the system and feedback used.

Public disclosure of such information is likely to give competitive advantage to other similar companies and as a result would have a damaging impact on the company concerned.

Any relevant information supplied by Stonewall is provided in the expectation that whilst remaining relevant, details within their contract and advice provided, which is commercially sensitive, will be held by Police Scotland and not disclosed to another organisation which may gain a competitive advantage in receiving this information.

In addition, if the information was disclosed this may, in the future, reduce the number of companies tendering for the supply of goods and services, they being aware that the Police will disclose commercially sensitive information. This is likely to negatively impact on the tendering process used by the service to ensure it purchases the most efficient and cost effective services in the future, and prejudice the commercial interests of Police.

This is a non-absolute exemption which requires the application of the Public Interest Test.

Public Interest Test

Public Interest arguments in support of disclosure

- Would allow greater scrutiny of the way public funds are spent;
- Would increase accountability and transparency in terms of this spending;
- It is in the public interest for Police Scotland to procure services competitively, to ensure best value for money.

Public Interest arguments in support of withholding the information

- Would be commercially unfair to our current suppliers;
- Could damage Police Scotland's relationship with the suppliers;
- The purpose of the tender process is to ensure that all options are presented to Police Scotland and from there the best option in terms of service and cost is selected.

Public Interest Balancing Test

Police Scotland is a publicly funded organisation and therefore the Service has an obligation to obtain best value for money with particular services. Further, in order to do this, it is essential to maintain working relationships with these companies that tender their services.

As such, Police Scotland will not disclose any information that would impact on the ability to do both. The public interest would not be served if it were no longer possible to engage companies in a tender offer if they believed that conducting business with Police Scotland would result in their confidential financial information being released.

In order to be of some assistance however, I can advise that the feedback provided by Stonewall placed Police Scotland as follows:

Total Rank: 108th

Emergency Services Sector Rank: 7th

3. Any other communication you have received from Stonewall in 2019 or 2020 unless privileged or otherwise exempt from disclosure (but if you claim privilege or exemption in relation to any material, please say in broad terms what the material is and the basis on which you claim to be entitled to withhold it).

In response to your request, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, numerous areas of Police Scotland liaise with Stonewall on a regular basis. There is no central register of contact with Stonewall and so the only way to obtain reliable information in this regard would be for all departments to be contacted to conduct a search of their electronic and paper archives. Due to the number of departments we have this would take a large amount of time to complete and would exceed the cost threshold within the Act.

4. Full details of any equality impact assessment you carried out connected with any of these applications (including any equality impact assessment carried out prior to an earlier application of the same kind, if no further assessment was done).

I can confirm Police Scotland have not carried out any equality impact assessment in regards to these applications. As such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information requested is not held by Police Scotland.

5. Details of the total amount of money you paid to Stonewall (i) in 2019; (ii) in 2020, whether or not as payment for goods or services.

Financial Year 18-19: £2,900

Financial Year 19-20: £2,631.97

Financial Year 20-21: £2,500

6. Whether you intend to continue your membership of any Stonewall scheme in the future, and if so which.

Yes, Police Scotland will be making a submission to the Stonewall Workplace Equality Index in 2021/2022.

Should you require any further assistance please contact Information Management - Edinburgh on 0131 311 3901 quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.pnn.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.