

1 November 2011

Our Ref: 0733/2011

Martin McGartland

Email: request-84255-507053dd@whatdotheyknow.com

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Dear Mr McGartland

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0733/11

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 27 September 2011 from Inspector Graeme Cuthbertson of the Freedom of Information (FOI) Unit. In accordance with the Act, the Review Panel (hereinafter referred to as ‘the Panel’) convened on the 26th and 28th Oct 2011 to consider your request for a review of that decision and in terms of Section 21(4)(a) of the Act, has made the following determinations:

In relation to question 1a “*All information concerning (the Review Panel) including full details of Panel members*”, the legal representative has given consent for her name to be released and I can therefore confirm that the legal representative on the Panel was Mrs Claire Martin.

In relation to question 1b “*and full details of all information evidence used by them when dealing with that request*” the Panel upheld the decision that there was no obligation to comply with the request under the terms of Section 14(2). The Panel considered that this request was substantially similar to your request of 21 June 2011. The Panel considered that this request, whilst differently worded, was nonetheless an indirect request for the same information.

The Panel confirmed that, in relation to question 2, there is no data held, and therefore this question was correctly responded to in terms of Section 17 of the Act.

The Panel noted that question 3 was answered and the requested information provided.

The Panel confirmed that, in relation to questions 4, 5, and 6, there is no data held, and therefore these questions were correctly responded to in terms of Section 17 of the Act.

Further, in relation to question 6 the Panel considered that, whilst the information requested would be exempt under Section 38 of the Act, it was appropriate for the FOI Unit to respond to that request due to your public disclosure of these circumstances through use of the “whatdotheyknow” website.

The panel then considered a series of email exchanges between you and the FOI Unit leading from the request 0733/2011 as these appeared to surround clarification of the initial response to the request.

It was noted that in an email, sent to the FOI Unit on 28 September 2011 at 00:21, you state “*As a result of the above I would like to make a new request as follows;*” consisting of 5 questions around “*How many requests have been refused by Strathclyde Police on the grounds of Section 31..*”. The information requested was provided in an e-mail response, from Inspector Cuthbertson, sent on 28 September 2011 at 17:12, which also included responses to your previous email correspondence.

The panel considers that this created some confusion and the “*new request*” would have been better to have been treated as a new FOI request within the Force Disclosure Unit, logged, and answered separately. However, the Panel noted that this “*new request*” followed on directly from your initial request and a full response was provided to you in less than 24 hours.

It was further noted that in your email of 1 October 2011 17:31 you ask a further question “*Can you please confirm if a signed certificate by member of the Scottish Executive was requested and or granted/issued regards any of the request I have made*”. In respect of that request you were issued with a S14(1) notice, on 3 October 2011, informing you that your request was deemed to be vexatious and consequently this question was not answered. The Panel considered that in concluding its review on the FOI request 0733/2011 it was necessary to review the application of the S14(1) notice too.

The Panel therefore reviewed the application of the S14(1) notice and has upheld the decision without modification. The Panel noted that this was the latest in a series of requests and questions all relating to your original request of 21 June 2011. The Panel considered that when viewed in the context of that series of requests there has been a significant burden upon the FOI Unit in terms of requiring a disproportionate amount of time to respond to your requests. The Panel also considered that the requests were designed to cause disruption and annoyance, had the effect of harassing the FOI Unit, and were manifestly unreasonable and disproportionate.

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

Douglas Cochrane
Head of Information and Administration Services