

Our Ref: RQST3898290/AMOD/TAM/EC

Your Ref:

15 May 2012

Mr Thomas Ward

By Email: request-107268-ab48422b@whatdotheyknow.com

Dear Mr Ward

**REQUEST FOR REVIEW UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002  
("THE ACT")**

I refer to your recent request for review which was received by Glasgow City Council ("the Council") on 16 April 2012. Freedom of Information reviews within the Council are dealt with by myself.

You have requested a review on the basis that you are dissatisfied with the Council's response, dated 23 March 2012, to your initial request for information.

**Your Request**

In your initial request, dated 3 November 2011, the information requested was as follows:

*"I would be obliged if you can provide the following information under the provisions of the Freedom of Information (Scotland) Act 2002.*

1. *Number of officials who can authorise directed surveillance under the provisions of the regulation of investigatory powers (Scotland) act 2000.*
2. *Job titles of the above officials.*
3. *Details of training undertaken by the officials, including the dates that the training was undertaken.*
4. *Number of officials who as part of their duties would undertake any directed surveillance.*
5. *Job titles of the above officials.*
6. *Details of training undertaken by the officials, who undertake the surveillance, including the dates that the training was undertaken.*
7. *Number of officials who can authorise the interception of communications under the provisions of the regulation of investigatory powers act 2000.*
8. *Job titles of the above officials.*
9. *Details of training undertaken by the officials, including the dates that the training was undertaken.*
10. *Numbers of officials who can authorise the use of a covert human intelligence source under the provisions of the regulation of investigatory powers (Scotland) act 2000.*
11. *Job titles of the above officials.*
12. *Details of training undertaken by the officials, including the dates that the training was undertaken.*

13. *Please also confirm if your authority allow untrained officials to undertake directed surveillance.*"

### **Response to Initial Request**

The Council's response was issued to you by Ayshea Brown, Team Manager under cover of her letter dated 23 March 2012. A copy of Ms Brown's letter is enclosed for your reference.

### **The Review**

In your request for review you advised that you were dissatisfied with the response which the Council has provided to certain points within your request. You have requested an explanation as to why the Council is not permitted to carry out the interception of communications. In addition, you have confirmed that you are dissatisfied with the Council's view that certain information is excepted from release in terms of the legislation.

I have now carried out a review of the information provided to you by the Council and, in relation to the points raised in your request for review, would advise as follows:

- Q1. "Can you please explain why your council are not permitted to carry out the interception of communications? Further FOI requests to neighbouring authorities has established that they are permitted to do so and have officers trained and authorised to undertake such activity."**

- A1.** In her response to you, dated 23 March 2012, Ms Brown advised that the Council is only authorised to use the formal powers granted by Part I Chapter II of the Regulation of Investigatory Powers Act 2000 ("the RIPA").

I would confirm that the Council's powers are limited to those set out Part I Chapter II of RIPA and that the Council has no statutory authority to intercept communications. As advised previously, this means that the Council does not hold the information requested in relation to parts seven, eight and nine of your initial request. Therefore, as the Council does not hold the information in question, it is exempt from release in terms of Section 17 of the Act.

Accordingly, I would confirm that the Council is not permitted to carry out the interception of communication as RIPA does not provide the Council with the statutory authority to do so.

This Council is unable to comment on the responses to the contrary provided by any other local authority.

- Q2. "Can you please explain your reasons for providing the above in particular how providing the requested information could prejudice substantially the prevention or detection of crime or the use of the council's statutory powers to ascertain whether a person has failed to comply with the law. I have not asked for details of any particular surveillance operation or details of the nature of training provided to surveillance officers. The information requested is simply to establish the job titles of the the officers who can undertake surveillance and what training they have undertaken. I can see no reason as how the prevention or detection of crime could be prejudiced by providing this information. I would also ask for consideration to be taken that all of the other councils in the west of Scotland have happily provided this."**

- A2.** In the Council's response to your initial request, Ms Brown advised that the Council was of the view that the information which you requested in relation to part five of your request was exempt from release in terms of the Act because of the exemption contained in section 35(1)(a) of the Act and, also, section 35 (1) (g) together with section 35(2) of the Act.

Having considered the information requested, and reviewed the response provided in the Council's correspondence of 23 March 2012, I would confirm that I am of the opinion that this information was correctly withheld in terms of the Act. The Council's position remains that the release of the job titles of staff who may undertake directed surveillance would, or would be likely to, prejudice substantially the prevention or detection of crime or the use of the Council's statutory powers to ascertain whether a person has failed to comply with the law. The

Council is of the opinion that such information could potentially be used to identify the officers in question. If this were to happen, is likely that this would have a detrimental effect upon the ability of those individuals to carry out directed surveillance effectively. The Council also believes that the identification of these officers is likely to make it increasingly difficult for them to carry out such surveillance without being recognised. In addition, to the above, identification of the relevant officers also increases the potential for individuals who undertake such duties to be subjected to threats and/or intimidation.

If the release of the job titles of the officers involved in directed surveillance results in those officers becoming unable to continue to carry out these duties as a result of their identification then this would have the effect of substantially prejudicing the prevention or detection of crime and the use of the Council's statutory powers to ascertain whether a person has failed to comply with the law.

Notwithstanding the above, the Council recognises that, even where it considers section 35(1) to apply to information which it holds, the Council may be required to disclose this information where the public interest is best served by disclosure of the information. While the Council recognises the importance of openness and transparency in the use of its powers, it also recognises that there is a strong public interest in ensuring the prevention of or detection of crime and in the administration of justice through the obtaining of evidence of the commission of a crime. In these circumstances, the Council is of the opinion that the public interest in the prevention and detection of crime and the continued use of the Council's statutory powers to ascertain whether a person has failed to comply with the law would outweigh the public interest in openness and transparency. Accordingly, the Council's position remains that, in this particular case, the public interest is best served by withholding the information which you have requested.

With regards to the training of the officers in question, the Council's response confirmed that all staff involved in the authorisation and conduct of directed surveillance undertake initial training prior to the commencement of any such duties. In addition, they also participate in refresher courses each year. The Council has also confirmed that it does not permit untrained staff to undertake any directed surveillance.

Again, this Council is unable to comment on the responses to the contrary provided by any other local authority.

I trust that the information provided above is satisfactory for your purposes.

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### **The Review Decision**

As all of the information held by the Council in connection with your request for information has been provided to you, the Council accordingly feels that it has complied with your request.

**Right of Appeal**

I hope that you are satisfied with this response. However, if you are not you have the right to make an application within 6 months of receipt of this letter for a decision by the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews KY16 9DS.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A O'Donnell', with a horizontal line drawn underneath.

**Annemarie O'Donnell**  
**Executive Director**

Enc.