| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-3174  Responded to: 08 January 2024 |
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Your recent request for information is replicated below, together with our response.

## Under FOI we requested that you provide all evidence and correspondence relating to the case involving Fred the Eagle, we understand that this case is now closed and no longer time barred. We would like to appeal your decision to withhold this information based on the Public Interest Test, as due to impending political changes, would it not be in the public interest to show the actual circumstances of this case.

With regards to your request above I can advise this information is considered to be exempt. Section 16 of the Act requires Police Scotland 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. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided. The exemptions that I consider to be applicable to the information requested are as follows:

**Section 34(1) (a) (i) & (b) – Investigations by a Scottish public authority and proceedings arising out of such investigations**

Information is considered exempt information if it has, at any time, been held by a Scottish public authority for the purposes of an investigation which may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service to enable a determination on whether criminal proceedings should be instigated and to determine whether a person should be prosecuted for an offence.

This is a non-absolute exemption and requires the application of the public interest test.

**35(1)(a)&(b) – Law Enforcement**

Information is exempt information if its disclosure would, or would be likely to, prejudice substantially the prosecution of offenders.

This information is held for policing purposes and disclosure of the requested information could hinder law enforcement or live investigations.

This is a non absolute exemption and requires the application of the public interest test.

**Public Interest Test**

I appreciate there is a degree of interest in the release of such information: however this must be tempered against what is of interest to the public and what is in the public interest.

The Act does not define the public interest, however, it has been described as “something which is of serious concern and benefit to the public”, not merely something of individual interest. It has also been described as “something that is “in the interest of the public”, not merely “of interest to the public.” In other words, it serves the interests of the public.

It is in the public interest that an understanding exists as to the processes involved in police investigations and in their relative success. This is particularly true in investigations, therefore, accountability and transparency relating to the actions of Police Scotland and its officers would favour disclosure of the information.

That said, a decision for non-disclosure follows consideration of ongoing or likely criminal investigations and the efficient and effective conduct of Police Scotland in relation to such investigations.

As previously explained, it is essential that information pertaining to investigations is disclosed at the correct time, where appropriate, to ensure that neither the investigation nor the potential for proceedings to be brought against an individual(s) are put at risk.

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](mailto:foi@scotland.police.uk) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.