

Our Ref: IM-FOI-2022-0510
Date: 15 March 2022



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.

In particular, when was any need to enforce S65(2) of the Civic Government (Scotland) Act 1982 against the protestors pushed?

The information requested above is held by Police Scotland, however it is considered to be exempt in terms of Section 16 of the Freedom of Information (Scotland) Act 2002 (the Act). 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 following exemptions are applicable to the above requested information:

Section 35 (1) (a) – Law Enforcement

Information is exempt information if its disclosure under this Act would, or would be likely to; prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

Public safety is of paramount importance and disclosure of this information would allow criminals and terrorists the ability to assess the capability of Police Scotland during protests. Law enforcement techniques would be exposed which would enable criminals to build a picture of where resources were deployed and as such would allow them to carry out their criminal or terrorist activities. To disclose this information into the public domain would undermine the tactical options available and compromise the effective delivery of future operational law enforcement.

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

Section 39 (1) – Health, Safety and the Environment

Information is exempt information if its disclosure under this Act would, or would be likely to; endanger the physical or mental health or the safety of an individual.

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The release of information requested would enable those intent on wrong doing to estimate the capability of the force. Police Scotland has a duty of care to all individuals, including members of the public police officers and police staff members. The safety of the community at large would be compromised by disclosure of the information, enabling offenders to target their criminal activities to areas identified as vulnerable, which could lead to members of the community suffering from stress, anxiety or physical injury.

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

Public Interest Test

It could be argued that the public are entitled to know how resources are distributed within an area of policing. However, security measures are put in place to protect the community we serve and disclosure of any policing tactics with regard to security and crime prevention techniques would assist criminals and terrorists in carrying out their criminal and terrorist activities. This would ultimately increase the risk of harm to the general public and significantly undermine any ongoing or future operations to protect the security or infrastructure of the United Kingdom.

The public have an expectation that the police will make the appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain. Disclosure of this information coupled with the disclosure of similar information from other forces and law enforcement agencies would give such criminals and terrorists a more detailed account of the tactical infrastructure of not only Police Scotland but also the country as a whole. Any incident that results from such a disclosure would by default affect National Security.

Whilst there is a public interest in Policing protests and the transparency of policing to providing assurance that Police Scotland is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding both national security and the integrity of police operations when delivering effective operational law enforcement to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

This is also relevant in relation to information sharing among Governmental Departments and other law enforcement agencies both within the UK and abroad. Anything which places that confidence at risk would undermine the trust members of the public, as well as other agencies have in the Police Service.

As much as there is public interest in knowing that policing activity is appropriate and balanced, this will only be overridden in exceptional circumstances.

In addition any disclosure by Police Scotland that places the security of the country at risk, no matter how generic, would undermine any trust or confidence individuals have in us.

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Should you require any further assistance concerning this matter please contact Information Management – Glasgow at foiglasgow@scotland.police.uk 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.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.