

Our Ref: IM-FOI-2022-0731
Date: 21 April 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.

Could I please be sent over your initial guidance in relation to dealing with public bloggers/auditors?

Clarified as:

Yes I'm aware of Police in England have the below policy in place already.

This is due to auditors doing lawful activities of taking pictures of police stations and vehicles and the harassment received by the police - ie abusing the use of section 44 of the Terrorism act.

Are there any policies in place regarding auditing of Police Buildings?

Apologies I'm looking for standard operating procedure.

Police Scotland does not hold a Standard Operating Procedure with regard to this request. In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

I can however provide the attached guidance document which meets your criteria.

I would ask that you note that this is an Interim Guidance document and as such will be subject to change.

You will also note limited information has been redacted and the following are considered applicable under Section 16 of the Act:

Section 35(1)(b) – Law Enforcement

The information requested is exempt, as its disclosure would or would be likely to prejudice substantially the prevention or detection of crime and apprehension or prosecution of offenders.

Release of the information would adversely impact on the operational effectiveness of the Service and compromise any tactical advantage the police may have.

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

Section 30(c) - Prejudice to the Effective Conduct of Public Affairs

Information is exempt information if its disclosure under the Act would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs.

Public release of this telephone number could negatively impact on the operational effectiveness of the service. The phone number is used for operational/business purposes and this information has been removed in order to ensure that internal processes are protected.

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

Public Interest Test

The exemptions detailed above are non-absolute and require the application of the public interest test.

It is accepted that there is a public interest in the disclosure of the information on the basis that it could lead to greater transparency and public debate.

That said the withheld material contains tactical information which could reveal specific operational strategies. Any such release would either compromise or significantly weaken police tactics enabling individuals or groups to become aware of such strategies and find ways to circumvent them.

Finally, with regards to contact details there are already established routes for the public to make contact with Police Scotland. Disclosure of this information would be likely to adversely affect the processes that have been put in place, in order to provide an appropriate level of service. There are already various ways in which the public can contact Police Scotland with a specific section of their websites dedicated to this.

Taking all the above into consideration, I believe the public interest in withholding the redacted material outweighs that for disclosure.

With the additional question:

Would you also have the information of how many people were stopped under section 44 within 100 yards of a police station?

It is assumed that your reference to 'section 44' is section 44 of the Terrorism Act 2000.

I would first advise you that Police Scotland's priority is to keep the people of Scotland safe and we are committed to providing an effective coordinated response to the terrorist threat by ensuring appropriate resources are engaged in partnership with communities and other agencies to stop people from becoming sympathetic to terrorists or supporting terrorism.

Having considered your request in terms of the Freedom of Information (Scotland) Act 2002, I am therefore refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18 of the Act.

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Section 18 applies where the following two conditions are met:

It would be contrary to the public interest to reveal whether the information is held:

Whilst we accept that you may have an interest in being informed as to whether or not the information sought is held, the overwhelming public interest lies in protecting the security of the UK and not undermining national security.

Whilst there is a public interest in the transparency of policing, and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed by terrorist activity, the stronger public interest in safeguarding national security and the integrity of police investigations and operations in the highly sensitive area of terrorism.

If the information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act

In this instance, the following exemptions are assessed to apply:

Section 31(1) - National Security
Section 34(1)(b) - Investigations
Section 35(1)(a)&(b) - Law Enforcement
Section 39(1) - Health and Safety

The threat of terrorism cannot be ignored. The international security landscape is increasingly complex and unpredictable and the UK faces a sustained threat from violent terrorists and extremists.

Modern-day policing is intelligence led, and intelligence changes on a daily basis. It is assessed that the disclosure of the information you are requesting relates to specific types of investigation and specific behaviours is inherently harmful as it would highlight where policing activity has or has not occurred, thereby allowing those engaged in criminal activity to identify the focus of policing targets.

Any disclosure that undermines the operational integrity of Police Scotland will adversely affect public safety and have a negative impact on both national security and law enforcement.

Any information identifying the focus of this activity could be used to the advantage of terrorists or criminal organisations.

I have considered the public interest with regards disclosure of the information requested if it were held, and I am of the view that whilst better informing the public debate on a matter of significant concern may favour disclosure, ensuring the integrity of the police response to terrorist activity and ultimately, keeping people safe from harm is paramount.

Security measures are put in place to protect the communities that we serve. As additional information is disclosed over time, a more detailed account of the tactical infrastructure of not only a force area such as Scotland, but also the UK as a whole, will emerge. The risk of harm to the public would be elevated if areas of the UK which appear vulnerable were identified, potentially providing the opportunity for terrorist planning.

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On balance, if the information were held, I consider that the public interest in disclosure would not outweigh the public interest in maintaining the exemptions.

Should you require any further assistance please contact Information Management - Dundee on foidundee@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.

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