

Our Ref: IM-FOI-2022-2308
Date: 29th November 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.

Q1. How many smart speakers have been submitted for examination in the digital forensics unit in the past 12 months?

I can confirm that no smart speakers have been submitted for examination in the past 12 months.

Q2. What software (internal/external) is used to extract and process the data from the smart speaker devices?

Q3. Is the software accredited to ISO17025?

Q4. How many staff are competently skilled to retrieve evidence from smart speakers?

In regards to questions 2 to 4, in terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information requested.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, 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.

I can confirm that Police Scotland holds the information that you have requested.

The exemptions that I consider to be applicable to the information requested by you are:

Section 31(1) – National Security and Defence
Section 35(1)(a)&(b) – Law Enforcement
Section 39(1) – Health, safety and the environment

Section 31(1) – National Security and Defence

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Information is exempt information if exemption from section 1(1) is required for the purpose of safeguarding national security.

If the information is disclosed it may assist terrorist organisations to identify, with some accuracy the resources and capabilities of our cybercrime department and as such would allow them to carry out their criminal or terrorist activities.

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 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. Disclosure of this information would enable criminals to build a picture of resources and capabilities of our cybercrime department and as such would allow them to carry out their criminal or terrorist activities. To disclose this information into the public domain would compromise the effective delivery of operational law enforcement.

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

39(1) – Health, safety and the environment

Disclosure of the information requested would prove extremely useful for criminals and those intent on wrongdoing, to estimate the level of cybercrime resources deployed by the Police and would assist them in circumventing the efficient and effective provision of law enforcement by the police service, which in turn would have an adverse impact on the safety of the officers involved and the general public.

This would increase the risk to the personal safety of individuals and also the safety of the police officers responding to incidents.

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

Public Interest Test

As you will be aware, the exemptions listed above are non-absolute and require the application of the Public Interest Test. I would suggest that public accountability would favour disclosure, given that the information concerns the efficient and effective use of resources by the Service. Likewise, disclosure of the information would also inform the public debate on the issue of policing, in particular digital examination of devices and would contribute to the accuracy of that debate.

Furthermore, the applicability of the exemptions listed above, the need to ensure the effective conduct of the service in relation to prevention and detection of crime and, the public safety considerations involved in the delivery of operational policing clearly favour non-disclosure of the information requested.

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It is important to note that the UK does face a serious and sustained threat from violent extremists and this threat is greater in scale and ambition than any terrorist threats in the past. The police service has a duty to promote the safety of all individuals, and releasing information which may provide those involved in crime or terrorism additional information to evade detection via digital investigation might jeopardise this goal. To provide details of resources allocated to digital examination of specific devices and the capabilities we hold in this regard is likely to place individuals at serious and increased risk.

On balance I would contend that the public interest in disclosing the information is outweighed by that in maintaining the exemptions listed, as, it is doubtful if it can ever be in the public interest to disclose information which would jeopardise the delivery of policing and the safety of individuals and prejudice the prevention or detection of crime.

Q5. What are the issues encountered when attempting retrieval of evidence from smart speaker devices?

I must conclude that as it does not seek a copy of recorded information, this question it is not a valid request in terms of Section 8 of the Freedom of Information (Scotland) Act 2002.

By way of explanation, your question is seeking an opinion which is not considered recorded information as per the Act.

Should you require any further assistance please contact Information Management 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.