| Police Scotland logo | Freedom of Information Response Our reference: FOI 25-1865  Responded to: 14 July 2025 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

1. **The latest in force Data Protection Impact Assessment conducted under S.64 of the DPA 2018 (the Act) by the Authority for your participation in DESC if one is held.**

In response to your request, please find attached a copy of Police Scotland’s Data Protection Impact Assessment (DPIA) in relation to Digital Evidence Sharing Capability (DESC). You will find some of the content has been redacted. The information sought is held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the following exemptions apply:

**Section 33(1)(b) – Commercial Interests**

Information is exempt under section 33(1)(b) if its disclosure would, or would be likely to, prejudice substantially the commercial interests of any person. In terms of the legislation a Person includes a public authority, company and partnership.

Commercial interest is not defined in the Act, however, a person’s or organisation’s commercial interests will usually relate to the commercial trading activity they undertake, commonly for the purpose of revenue generation and this activity will normally take place within a competitive environment.

In this instance disclosure of this document would be detrimental to the data owner(s) and as such is considered to be commercially sensitive.

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

Public Interest Test

There are a number of arguments in support of disclosure, for example, greater scrutiny of the way public funds are spent, it would increase accountability and transparency, and it is in the public interest for Police Scotland to procure services competitively, to ensure best value for money.

Additionally, there are several arguments in support of withholding the information, for example it would be unfair to disclose commercially sensitive information which has the potential to damage Police Scotland’s relationship with partners.

Police Scotland is a publicly funded organisation and therefore the Service has an obligation to obtain best value for money. In order to do this, it is essential to maintain working relationships with companies we work with.

As such, Police Scotland will not disclose any information that would impact on the ability to do both. The public interest would not be served if it were no longer possible to engage companies if they believed that conducting business with Police Scotland would result in their confidential information being released.

Accordingly, such information will not be disclosed whilst remaining relevant.

**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.

In this case e-mail addresses have been redacted. To release these publicly through FOI legislation could negatively impact on the operational effectiveness of Police Scotland and our partners.

While it is acknowledged that the disclosure of this information would support transparency, there are already established routes for the public to make contact with the police and our partners and disclosure would not support the effective conduct of public affairs. As a result, section 30(c) of the Freedom of Information (Scotland) Act 2002 is engaged.

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

Public Interest Test

Release of e-mail addresses which are not in the public domain could negatively impact on the operational effectiveness of Police Scotland and our partners. Accordingly, and to ensure that internal processes are protected this information cannot be provided.

There can be no public interest in disclosing information which would make it more difficult to offer an efficient and effective service.

**Section 30(b) – free and frank provision of advice or exchange of views**

Information is exempt under sections 30(b) if disclosure would, or would be likely to, inhibit substantially:

(i) the free and frank provision of advice (section 30(b) (i)) or

(ii) the free and frank exchange of views for the purposes of deliberation (section 30(b) (ii)).

Information is exempt under section 30(b) if disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation.

The exemptions in section 30(b) focus on the effect that disclosure of information would have (or would be likely to have) on the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation. The sharing of this content would likely have a negative impact on the effective conduct of public affairs.

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

**Section 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.

The requested information could be used by a hostile party to plan and execute an attack on Police Scotland. Any such attack could not help but have the effect of reducing the ability of the police to undertake relevant activities.

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

Public Interest Test

It could be argued that there is a public interest in disclosure of such information as it would contribute to greater transparency and openness.

That said, 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.

A decision for non-disclosure follows consideration of the harm that could be caused by release of such information. Disclosure would provide those intent on disrupting police activities with enough information to plan and execute a targeted attack.

Additionally, if individuals were unwilling to contribute to such deliberations or put forward proposals in the future fearing their initial views were publicly attributable, or in case any non-factual information was disclosed prior to matters being finalised, any efforts to achieve honest opinions, would be hindered and as such the balance of the public interest test favours retention of the information.

**Section 38(1)(b) - Personal Data**

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met. The only potentially applicable condition is Article 6(1)(f) which states:

‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child’

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject. On that basis, it is my view that disclosure of the information sought would be unlawful.

This is an absolute exemption and as such does not require the application of the Public Interest Test.

1. **Copies of any communication made under S.65 between the Authority and the Commissioner in respect of identified high risks to the rights and interests of an individual over the past 12 months.**

**This may logically include draft DPIA's and materials under preparation or not included in the current in force DPIA.**

1. **Copies of any other communications between the Authority and the Commissioner over the last 12 months relating to any identified risks in relation to offshore (i.e. non-UK located or remotely initiated) processing by any processor or sub-processor - whether or not these were communicated to the Commissioner under S.65.**
2. **Copies of any communications between the Authority and Microsoft, or the Authority and Axon (both being previously identified as Authority data processors) over the past 12 months in relation to their processing of personal data covered under Part 3 of the DPA 2018 (i.e. relating to the processing of personal data processed for a Law Enforcement purpose).**

**NB: This may logically include information relating to services outside of the DESC service itself, such as M365 or general Azure services (Microsoft), or body-worn video, etc. (Axon), that the Authority may already consume or intend to consume for Law Enforcement processing purposes.**

Unfortunately, I estimate that it would cost well in excess of the current FOI cost threshold of £600 to process your request. I am therefore refusing to provide the information sought in terms of section 12(1) of the Act - Excessive Cost of Compliance.

By way of explanation, there is no straightforward method to extract the information you require. In order to extract this data, a manual search of many staff/ officers’ mailboxes/ emails would be required to determine if any hold communication and then identify any relevant correspondence. This would be a lengthy process and would take well in excess of the £600 cost limits prescribed by the Scottish Ministers.

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](https://www.foi.scot/appeal), by [email](mailto:enquiries@foi.scot) 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.