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Our Ref: IM-FOI-2022-2422  
Date: 13<sup>th</sup> December 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.

1.

**Police forces have a "tolerance" level related to when their speed cameras activate if a driver is travelling above the legal limit. For instance, a police force's "tolerance" may be 10% plus 2mph. In that case, on a 30mph road, a camera would not normally activate unless a car drove past at 35mph or higher.**

**Please can you disclose the current "tolerance" level used by your force's speed cameras?**

2.

**If your force's "tolerance" level for speed cameras has ever changed since November 1, 2017, please can you provide a list of the dates for when each change to the level was made, and what it changed to and from?**

Information concerning the universal speed threshold is considered to be exempt in terms 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.

### **Section 35(1)(a) & (b) – Law Enforcement**

Disclosure of the information regarding the speed would allow drivers to speculate on the possibility of being detected. These thresholds are maintained in line with guidelines issued by the Lord Advocate. Further, if there are particular issues of road safety, the guidelines allow for downward variation of thresholds for action by local agreement between Area Procurators Fiscal and the Chief Constable. It would therefore be

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misleading to motorists if normal thresholds were published, since these local agreements allow for enforcement at lower speeds.

There has to be the perception that the likelihood of detection is high and the only sure way to avoid prosecution in terms of dedicated speed is to remain within the statutory speed limits.

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

Road traffic laws are formulated with the purpose of ensuring the safety of all road users.

It is well recognised that excessive speed is a danger to road users and often a contributory factor in road crashes. Disclosure of the information which has been exempted would encourage speeding up to these limits and consequently increase the risk to the safety of road users.

Thus, disclosure would, or would be likely to endanger the physical health or safety of an individual.

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

### **Public Interest Test**

As you will be aware, these exemptions are non-absolute and require the application of the public interest test. On balance it is considered that the public interest in the information requested is outweighed by the potential consequences to law enforcement and the impact of such a release on road safety measures.

The information requested relates to the speed thresholds permissible before consideration of prosecution as advised by the Lord Advocate.

Moreover, if the thresholds were disclosed, it would confirm the rationale in a driver's mind that it would be 'safe' or 'permissible' to drive at a certain speed above the max limit without fear of prosecution. This in effect would lead to an increase in speed limits beyond what the road sign actually states, which is patently not in the interests of crime prevention nor road safety.

On balance the Public Interest Test favours retention of this information.

Please find at the link below a recent Scottish Information Commissioner decision on speed ranges which was found in favour of Police Scotland:

<http://www.itspublicknowledge.info/uploadedFiles/Decision009-2017.pdf>

3.

**For every month since November 2017, please can you disclose the number of warnings of prosecution sent to motorists for speeding?**

**N.B. for this question, if the figures are collated in a different way - for instance by quarter instead of by month - please provide this instead.**

**Similarly, if the force holds data for less than five years, please provide the maximum available.**

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**For this question I am, essentially, looking for data on the number of speeding tickets issued by the force throughout the past 5 years, or as close to that time period as possible.**

From the context of your request, I have interpreted your question to relate to instances of Conditional Offer of Fixed Penalty Notices (COFPN) sent due to activation at Safety Camera sites.

Please note that information dating from 2017 is no longer held, as such in terms of Section 17 of the Act, I can confirm that the information you seek is not held by Police Scotland.

By way of explanation, offence data is held for 3 calendar years plus the current year as per Police Scotland's retention policy. I have provided the records retention police for you to view, please see the link below.

<https://www.scotland.police.uk/spa-media/nhobty5i/record-retention-sop.pdf>

The table below provides the number of COFPN sent to drivers during the years noted below broken by month. Please be advised that the information relating to 2022 is provided up until 17 November 2022.

| Year | Month     | Conditional Offer of Fixed Penalty Notices Sent |
|------|-----------|---|
| 2019 | January   | 3604  |
|      | February  | 4255  |
|      | March     | 4427  |
|      | April     | 4525  |
|      | May       | 5050  |
|      | June      | 4784  |
|      | July      | 4706  |
|      | August    | 4417  |
|      | September | 5305  |
|      | October   | 5710  |
|      | November  | 3731  |
|      | December  | 2739  |
| 2020 | January   | 2656  |
|      | February  | 2757  |
|      | March     | 510   |
|      | April     | 0   |
|      | May       | 0   |
|      | June      | 101   |
|      | July      | 3573  |
|      | August    | 4065  |
|      | September | 5758  |

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|       |           |      |
|-------|-----------|------|
|       | October   | 5444 |
|       | November  | 3885 |
|       | December  | 2487 |
| 2021  | January   | 2555 |
|       | February  | 2264 |
|       | March     | 3250 |
|       | April     | 4046 |
|       | May       | 4982 |
|       | June      | 4952 |
|       | July      | 5346 |
|       | August    | 4797 |
|       | September | 3843 |
|       | October   | 3944 |
|       | November  | 3196 |
|       | December  | 1977 |
| 2022* | January   | 2296 |
|       | February  | 2920 |
|       | March     | 3714 |
|       | April     | 4997 |
|       | May       | 5843 |
|       | June      | 5172 |
|       | July      | 3161 |
|       | August    | 3183 |
|       | September | 3292 |
|       | October   | 2138 |
|       | November* | 122  |

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](mailto:foi@scotland.police.uk) or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalrnarnock, 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](mailto: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.

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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.