| Police Scotland logo | Freedom of Information Response Our reference: FOI 25-1464  Responded to: 9 June 2025 |
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Your recent request for information is replicated below, together with our response.

## I would like to request the following information:

## The standard operating procedure (SOP) or internal policy Police Scotland follows when a mobile phone is seized as evidence during a criminal investigation — specifically regarding access, retention duration, and return process.

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 section 25(1) exemption applies:

“Information which the applicant can reasonably obtain other than by requesting it […] is exempt information”.

The information sought is publicly available:

[Device Seizure Examination](https://www.scotland.police.uk/spa-media/gqjmgfyk/legal-basis-for-the-digital-device-seizure-examination.docx)

[Productions National Guidance](https://www.scotland.police.uk/spa-media/ynpd5pfw/productions-national-guidance.doc)

[Record Retention SOP](https://www.scotland.police.uk/spa-media/nhobty5i/record-retention-sop.docx)

## The protocol for accessing digital evidence (e.g. mobile phones) when a suspect has voluntarily provided the PIN code, including what is recorded if PIN attempts fail.

I am refusing to confirm or deny whether the information sought exists or is held by Police Scotland in terms of section 18 of the Act.

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

- 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.

If the above data was held, the following exemptions would be considered relevant:

* **Section 31(1) - National Security and Defence**
* **Section 35(1)(a)&(b) - Law enforcement**

Exemption is required for the purpose of safeguarding national security and, additionally, disclosure would prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

Disclosure would assist groups, organisations, and those with hostile intent to identify, with some accuracy Police Scotland’s Cyber analysis capabilities. This would undermine any ongoing or future operations to protect the security or infrastructure of the United Kingdom and increase the risk of harm to the public.

Disclosure would facilitate criminal activities, thereby compromising the effective delivery of operational law enforcement.

**Public Interest Test**

As you may be aware, the exemption detailed above is non-absolute and requires the application of the public interest test.

Public awareness would favour a disclosure as it would contribute to the public debate surrounding Cyber security.

That said, I would contend that the efficient/effective conduct of the service and national security favours non-disclosure as it cannot be in the public interest to release information that would prejudice law enforcement, or which is likely to have an adverse impact upon national security.

## Any internal communication, guidance, or reviews between 2022 and 2024 relating to delays in digital forensics, particularly regarding mobile phone evidence or production release processes.

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

By way of explanation, there has been no internal communication relating to delays in digital forensics between 2022 and 2024.  The examination of digital devices is complex, and it is not possible to determine how long one examination will take. The length of time taken to examine a device differs according to device type, size of hard drive and complexity of the case.  Where a device is found to be evidential, the instruction to release/ return a production comes from the Procurator Fiscal.

## The average time taken between a decision to take no further action and the return of mobile phone devices to the owner during 2022–2024.

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

Police Scotland does not record the time taken between a decision to take no further action and the return of mobile phone devices.  Where there are no further proceedings, the decision to return a device lie with the reporting officer.  Consideration must be given to other possible lines of enquiry relating to the case.

## Whether Police Scotland records instances where production release notes are delayed due to staff shortages, and how such cases are escalated or resolved.

In terms of Section 17 of the Act, I can confirm that the information you have requested is not held by Police Scotland.

## Police Scotland does not record instances where production release notes are delayed.  Complaints regarding the return of a specific production and release notes should be detailed with reference numbers (where known) and submitted as per the guidance on ‘[Contact Us’](https://www.scotland.police.uk/about-us/how-we-do-it/complaints/) page

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.