

Our Ref: IM-FOI-2022-0053
Date: 2 February 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.

Some of the information requested 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.

For ease of reference, your request is replicated below together with the response.

For clarity when I refer to property I mean buildings such as bases, offices, police stations, or other buildings used in support of a policing purpose.

Please could you provide a full list of property owned by Police Scotland including addresses, could you please include details where joint ownership or a similar agreement exists between Police Scotland and other organisations such as a neighbouring police force.

I have attached separately, 22-0053-Data 1, which provides a list of Properties (Excel Tab-Police Property). Where properties are jointly owned these properties are indicated in Column V.

I would ask that you note that details of several properties have been withheld and the following exemptions are applicable:

Section 30(a) – Prejudice to effective conduct of public affairs

The information requested is exempt, as its disclosure would or would be likely to prejudice substantially the effective conduct of policing and Police Scotland's ability to prevent and detect crime in an efficient and effective manner.

Releasing the details of certain properties would allow criminals to plan how best to engage or occupy existing police resources in an effort to maximise their chances of committing serious crime, therefore harming the efficient and effective conduct of the service.

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

Section 35 (1) (a) & (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. If the details of certain buildings were released, experience has shown that it would allow those intent on committing crime or causing disorder to gauge the likelihood of detection or to take measures to negate the likelihood of detection. It would allow criminals to plan how best to engage or occupy existing police resources in an effort to maximise their chances of committing serious crime, therefore harming the efficient and effective conduct of the service.

Such information would prove extremely useful information for persons involved in criminality as they would be able to plan and conduct their activities to avoid detection. It would confirm where particular units were based and which would be available in a specific area at short notice. This would allow those intent on wrong doing to judge the police response time to a variety of incidents. In turn this would prejudice substantially the ability for our officers to prevent and detect crime and apprehend or prosecute offenders.

Disclosure would have an adverse impact on the ability of the Police to carry out its law enforcement role effectively, and thereby prejudice substantially the prevention and detection of crime.

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

Section 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 location of certain units and 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

I would suggest that public accountability may 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 and contribute to the accuracy of that debate.

However, any disclosure under FOI legislation is a disclosure to the world at large and any information identifying the location of certain premises could be used to the advantage of criminals.

Consequently, in terms of 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.

It is important to note that the UK faces 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, whether protected or not, and will not reveal any information that might jeopardise this goal.

I must advise you that it is doubtful it could 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.

Accordingly, I would argue that the need to ensure the efficient and effective conduct of the service favours non-disclosure of the information requested. I cannot identify any corresponding viewpoint in disclosing the requested information and therefore the exemptions are upheld.

Please could you provide a full list of property rented or leased by Police Scotland with addresses, used for a policing purpose or residential use by Police Scotland.

The attachment 22-0053-Data 1 (Excel Tab-Rented) provides a list of rented/leased properties

The list does not include individual police houses as this would identify where police officers reside and the following is applicable:

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 General Data Protection Regulation (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 set out at 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(s).

On that basis, it is my view that disclosure of the information sought would be unlawful.

In the past 12 months has your force rented any properties on a short term basis and if so could you please provide details including rent paid and any deposits or similar provided as part of the rental or lease of the property.

Details are as follows:

Inchinnan Army Reserve Centre, Barnsford Bridge, Houston Road, Inchinnan PA4 9LS
Rent: £15,090.39 (£36,216.94 per annum pro rata)
Term: 20/09/21 – 19/02/22 (5 months)

Redford Barracks , 301 Colington Road, Edinburgh EH13 0PP (Building-14)
28th May 2021 – 31st March 2022
£346 per week (inclusive of utilities and rates)

Accommodation within Kinloss Barracks, Kinloss, IV36 3UH
Term from 23 August to 17 October 2021
Rent £2,400 (inclusive of any VAT).

Former Rockwell High School, Lawton Road, Dundee, DD2 6SY
Term from 1 March 2021 and Month to month thereafter
Rent £1 per month

Westfield House, 5 Kirk Loan, Edinburgh EH12 7HD
30/08/21 – 28/02/22, monthly thereafter
No licence fee (£250 one off admin fee)

During the same period has Police Scotland disposed of any buildings previously used for policing or in support of policing, if so please provide details of the building(s) disposed of.

The requested information is provided within 22-0053-Data 1 (Excel Tab-Disposals).

Can you provide details of how buildings and estate are managed by Police Scotland on behalf of Policing within your force area.

Buildings and estates are managed by the Police Scotland Estates Department.

Should you require any further assistance please contact Information Management - Glasgow at – foi@scotland.police.uk – quoting the reference number given.

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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.pnn.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 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.

