| Police Scotland logo | Freedom of Information Response Our reference: FOI 25-0640  Responded to: 22 May 2025 |
| --- | --- |

Your recent request for information is replicated below, together with our response. Please accept my apologies for the delay in responding.

***I am writing to request information regarding an incident involving Police Scotland officers and Police Scotland vehicle on 23 October 2024.***

***Specifically, I am requesting:***

***Any records, reports, or communications detailing the alleged medical emergency that occurred inside the police vehicle on the specified date.***

***Any available dashcam footage, body-work camera footage, or control room logs that document the alleged medical incident.***

In relation to dashcam and body worn footage, I can advise that Police Scotland does not hold this information.

In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

By way of explanation, there was no dashcam fitted to the vehicle involved and the officers were not wearing body worn cameras.

In relation to the control room logs, records, reports or communication related to this matter, this information is considered to be exempt from disclosure.

Section 16 of the Freedom of Information Act (Scotland) 2002 (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. The exemptions that I consider to be applicable to the information requested are as follows:

**Section 34(1) (a) (i) & (b) – Investigations by a Scottish public authority**

Information is considered exempt information if it has, at any time, been held by a Scottish public authority for the purposes of an investigation which may lead to a decision to report the circumstances to the Crown Office and Procurator Fiscal Service to enable a determination on whether criminal proceedings should be instigated and to determine whether a person should be prosecuted for an offence.

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

**Public Interest Test**

I appreciate there is an interest in the release of such information: however, 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. In other words, it serves the interests of the public.

It is in the public interest that an understanding exists as to the processes involved in police investigations and in their relative success. This is particularly true in investigations, therefore, accountability and transparency relating to the actions of Police Scotland and its officers would favour disclosure of the information.

That said, when the Freedom of Information Bill was considered by the Scottish Parliament, the then Lord Advocate stated that the exemptions detailed in section 34(1) were essential for an effective justice system.

In addition, Section 34, has no harm test and information will be exempt from disclosure simply because it has, at some point, been held by an authority for any of these purposes listed.

Accordingly, I can find no public interest in the disclosure of the requested information.

The following exemption will also apply:

**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 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.*

Whilst I accept that you may have a legitimate interest with regards the disclosure, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject(s).

Accordingly, it is my view that disclosure of the requested information would be unlawful.

***Confirmation of whether this medical emergency permitted the officers to contravene Section 36 of the Road Traffic Act 1988 by making an illegal right turn.***

I can advise that Police Scotland does not hold information in the format requested.

As you will be aware an individual’s right in terms of the legislation is to obtain information held by a public authority at the time a request is received and there is no obligation on them to create new information specifically for such a request.

In this instance the information requested is seeking a yes/no answer, not recorded information, accordingly, in terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

***Details of any internal investigation, assessment, or justification regarding the police vehicle’s actions, including the decision to activate emergency lights after making the turn and subsequently switching them off.***

A Complaint against the Police was submitted in relation to this incident and a Standard Prosecution Report was submitted to the Criminal Allegations Against the Police Division (CAAPD) of the Crown Office and Procurator Fiscal Service (COPFS). The CAAPD subsequently advised there would be no proceedings in relation to this incident.

***Any policies or procedural guidelines that Police Scotland follows when determining whether a medical emergency inside a police vehicle justifies disregarding traffic regulations.***

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, at the link provided below. The relevant Standard Operating Procedure is Driver Training.

[***Standard Operating Procedures D-F - Police Scotland***](https://www.scotland.police.uk/access-to-information/policies-and-procedures/standard-operating-procedures/standard-operating-procedures-d-f/)

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.