| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-2047Responded to: xx October 2024 |
| --- | --- |

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

## A copy of all risk assessments held by Police Scotland relating to the handling / dealing / and exposure to fireworks from 1 January 2017 to 31 December 2023.

Risk assessment in relation to the handling/dealing and exposure to Fireworks, whilst not being dealt with in an overall generic Risk Assessment document, is covered across numerous specific subject documents such as Football, Productions Stores, Retention and Transportation of Evidence, Events and Specific Operations e.g. Op Moonbeam below.

As the risk assessment in relation to the handling and exposure to fireworks is consistently replicated across all the subject areas and Operation Moonbeam is the overarching operation in this respect, there is no requirement for me to duplicate the guidance here.

## A copy of all risk assessments held by Police Scotland relating to Police Scotland’s Operation Moonbeam.

The three attached documents covering 2018, 2020 and 2024 have been identified as relating to your request for information.

I can confirm that no information has been withheld with the exception of the names of two individuals who do not occupy a senior or public facing role.

As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to provide you with the information sought and the exemption that I consider to be applicable to the information requested by you is set out at Section 38(1)(b) of the Act - Personal Data.

Information which would identify any individual whose details are not in the public domain cannot be disclosed. The release of this information to a third party would breach the requirement that exists in relation to processing personal information.

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 […] 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 of this information, I do not agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

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

## A copy of the consultation document or similar which led to the purchase of noise cancelling ear defenders by Police Scotland.

This request for information has been clarified as specifically referencing the purchase of ‘Surefire’ ear defenders.

I would ask you to note that although the ear defenders are not ‘noise cancelling’, this reference is contained within the press comments.

The consultation process followed was one led by noise experts who were commissioned to carry out testing at numerous events and situations to ascertain the levels of noise exposure our officers could reasonably expect to encounter. This was carried out bearing in mind the need for officers to retain awareness of their surroundings, hence why the option selected was hearing protection with noise attenuation to reduce the overall exposure to our officers.

Working with Heriot Watt University (HWU), testing was carried out on the Surefire equipment following market searches to find equipment that was suitable and compatible with frontline operational duties. This exercise identified the Surefire model to be the most suitable.

Testing was then carried out by HWU which showed that the level of attenuation provided, reduced the noise exposure to acceptable levels whilst still leaving our officers with situational awareness. The H&S Board paper (attached) also provides part of this process that involved our Staff associations and Unions.

Some information relating to costs and purchasing of this equipment has been withheld. The exemption which applies is;

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

Section 16 of the Freedom of Information (Scotland) Act 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.

Such information will not be disclosed whilst remaining relevant, as it is considered to be commercially sensitive. Disclosure of this information would give a competitive advantage to companies in any future tender process.

Disclosure could reduce the number of companies tendering for the supply of goods and services, they being aware that Police Scotland will disclose commercially sensitive information. This is likely to negatively impact on the tendering process used by the service to ensure it purchases the most efficient and cost effective services in the future and prejudice the commercial interests of Police Scotland.

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

Public Interest Test;

Police Scotland is a publicly funded organisation and therefore the Service has an obligation to obtain best value for money with particular services. In order to do so it is essential to maintain working relationships with companies that tender their services.

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 in a tender offer if they believed that conducting business with Police Scotland would result in their confidential financial information being released**.**

I can confirm that the only other information withheld is the names of seven individuals who do not occupy a senior or public facing role.

As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to provide you with the information sought and the exemption that I consider to be applicable to the information requested by you is set out at Section 38(1)(b) of the Act - Personal Data, as detailed above.

## 4. Confirmation of the date that Police Scotland purchased noise cancelling ear defenders.

The contract award date was 09/11/2022.

## 5. Confirmation of the make and model of noise cancelling ear defenders purchased by Police Scotland.

Surefire EP4

## 6. Confirmation of the number of noise cancelling ear defenders purchased by Police Scotland.

18,700 to date from November 2022

## 7. Confirmation of the date that Police Scotland took delivery of the noise cancelling ear defenders.

Seven orders have been processed to date – four have been delivered, leaving three outstanding:

1. 20th December 22 and 29th March 23 (11,300)

2. 6th February 2024 (1,000)

3. 15th February 2024 (900)

4. 11th July 2024 (2,000)

In total 15,200 items have been delivered, with 3,500 outstanding.

## 8. Confirmation of the date that the noise cancelling ear defenders were public order tested.

From the information available, testing was conducted by H&S between Dec 2021 and Feb 2022. Over 100 officers were issued with Surefire and asked to test in a variety of roles and provide feedback. Around 20% of those officers were from Public Order and deployed in that capacity in a variety of circumstances.

## 9. Confirmation of when Police Scotland first consulted on the requirement to obtain noise cancelling ear defenders.

This issue was first looked at in 2017.

## 10. A copy of the results of the testing of the noise cancelling ear defenders.

The information requested is attached

I can confirm that no information has been withheld with the exception of the names of seven individuals who do not occupy a senior or public facing role.

As such, in terms of Section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to provide you with the information sought and the exemption that I consider to be applicable to the information requested by you is set out at Section 38(1)(b) of the Act - Personal Data, as detailed above.

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 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](http://www.itspublicknowledge.info/Appeal), by email 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.