| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-1762Responded to: 03 August 2023 |
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Your recent request for information is replicated below, together with our response.

## Can I have access to Fatal Accident Enquiry documents relating to Ibrox disaster in 1971. Police hold documents relating to \*\*\*\* who passed away in accident and I wish to research this.

In terms of Section 16 of the Freedom of Information (Scotland) Act 2002 I am refusing to provide you with the information sought.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, 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.

I can confirm that Police Scotland holds the information that you have requested.

The exemptions that I consider to be applicable to the information requested by you are as follows:

## Section 34 (1) (b) – Investigations

Section 34(1)(b) of the Act provides information is exempt from disclosure if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

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

**Section 34(2) (b) (ii) – Investigations by Scottish public authorities**

Information is exempt information if held at any time by a Scottish public authority for the purposes of any other investigation being carried out – (ii) for the purpose of making a report to the procurator fiscal as respects, the cause of death of a person.

Consequently, the information requested falls within this class-based exemption.

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

## Section 38 (1) (b) – Personal Information

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).

To explain, the release of personal information, either directly or inadvertently is exempt under the Freedom of Information (Scotland) Act 2002. This is an absolute exemption and does not require the application of the public interest test.

## Section 39(1) – Health, safety and the environment

Information is exempt information if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual. Whilst I appreciate the reasons why you might wish this information, I also have to consider the wider implications of the public release of such a document as a release of information under this Act is, essentially, a release of such sensitive information into the public domain.

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

## Public Interest Test

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. It has also been described as “something that is “in the interest of the public”, not merely “of interest to the public.” In other words, it serves the interests of the public.

In this instance providing requested information to yourself would be a public disclosure to the world. If we were to disclose this information, relatives and friends of all deceased could be distressed were they to learn the details of the death of their loved ones would be made public. This is particularly relevant in this case due to the potential media attention this could bring. The exemptions applies in the sense that general disclosure to yourself but also, disclosure generally would extend that distress further to the general public, the deceased’s families and friends and may bring unwanted attention. The mental health of the friends/ family of the deceased could also be endangered in two different ways - by becoming aware of upsetting information but also by seeing it publicly disclosed for all to see and speculate on. The case is now 52 years old and family and friends may want some form of closure. It could cause distress to individuals who witnessed these events on this day.

I am conscious that you will be disappointed with this response, however the records that you have requested are closed for 75 years from date created which is to comply with data protection legislation as well as to protect operational information. I would also ask that as noted above, Police Scotland publish all responses to information requests on our website and as such information is put in the public domain. As I am sure that you can appreciate, for the reasons stated above, a public disclosure of such sensitive information by means of the Act would not be appropriate.

To be of assistance, I can advise that for a small fee you could have a copy of the press cuttings book from Archives department within Mitchell Library. If you would be interested in this I have provided a link below for you with further details.

<https://www.glasgowlife.org.uk/libraries/venues/the-mitchell-library>

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.