| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-2575Responded to: xx November 2024 |
| --- | --- |

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

## Does Police Scotland have a policy/procedure/process etc. document(s) regarding e-scooters?

When dealing with offences relating to powered transporters and off-road vehicles, consideration is given to their intended use as defined by section 185 of the Road Traffic Act 1988, i.e. whether it is a mechanically propelled vehicle intended or adapted for use on roads or is it a mechanically propelled vehicle (MPV).

When an officer intends to use any legislation relating to a motor vehicle they must ensure they provide sufficient evidence to meet the definition at section 185.

Where the vehicle is mechanically propelled and sufficient evidence cannot be provided to meet the definition of a motor vehicle (and it cannot therefore be seized) officers should consider alternative legislation e.g. section 4 of the Road Traffic Act 1988 or section 127 of the Antisocial Behaviour etc. (Scotland) Act 2004.

Police Scotland is committed to dealing with the illegal use of e-bikes and e-scooters and have been carrying out various initiatives in different parts of the country to respond to complaints of increasing volumes on public footpaths and roads, causing anti-social behaviour and committing road traffic offences.

Police Operations have taken place in Leith, Edinburgh City, Glasgow and Dundee with other seizures and offences discovered on a regular basis.

## What training do officers receive in relation to e-scooters

Divisional guidance to provide clarity on ‘powered transporters’ has been made available to all officers by Police Scotland’s road policing departments in line with the response at Q1.

## In FOI 24-0908 (dated April 2024), Police Scotland confirmed there had been 16 road traffic accidents recorded for FY 2023-24. What where the outcomes for these in relation to the riders of the e-scooters? For example, no further action taken, verbal warning, fixed penalty notice issued, caution, prosecution etc.

## In FOI 24-0908, Police Scotland states it does not wish to “‘criminalise’ every offender.” With this in mind, what is Police Scotland’s approach in relation to e-scooters? For example, does Police Scotland utilise the 4 E’s model (Engage, Explain, Encourage, Enforce) employed during COVID-19

To avoid repetition, Q3 and Q4 have been answered together.

Whilst many people use e-bikes and e-scooters legally and responsibly, there are clearly occasions where these machines are being used outside of their specification with higher speeds and greater power outputs being achieved.

Police Scotland will continue to pursue those who put themselves and others at risk by using e-bikes and e-scooters illegally and irresponsibly.

In terms of how any illegal activity is dealt with, officers will use the range of options available to them under pre-existing Road Traffic legislation as there is currently no legislation specific to electric scooter use.

In terms of outcomes relation to this enforcement, the information 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 following exemptions apply:

Section 35(1)(a)&(b) - Law Enforcement

If we were to disclose the information requested above it would severely prejudice the prevention and detection of crime and the apprehension or prosecution of offenders. Accordingly, the information you have requested is exempt.

Section 39(1) - Health, Safety and the Environment

This information is exempt as its disclosure would or would be likely to endanger the physical health or safety of an individual. If the above information was disclosed it may encourage road users to commit offences, thereby endangering other road users and pedestrians and render the safety camera ineffective as a road safety measure.

Public Interest

Whilst I acknowledge that public accountability may favour disclosure, it is never in the public interest to disclose information that could influence the criminal justice process or alter offending behaviour.

It is important that the public are aware that the Police have this level of discretion to be able to deal with offences proportionately and without the need to 'criminalise' every offender. However, the release of this level of detail would provide an indication of the crimes and incidents which may be subject to this type of warning and lead individuals to perceive that it is ‘safer’ or ‘permissible’ to undertake a particular course of action without fear of prosecution.  This could lead to an increase in perceived low level crime, which is clearly not in the interests of crime prevention or the administration of justice.

## Given the number of FOI requests relating to statistical data on e-scooters made to Police Scotland over recent years (31 according to your disclosure log), does Police Scotland intend to develop a “crime classification specific to e-scooters” so that it does not have to conduct searches on a “case-by-case assessment”.

Police Scotland record crimes using the Scottish Government Justice Department crime classification codes and has no remit to develop crime classifications.

Police Scotland provide the Scottish Government with reports and stsatistical information as it may reasonably require and in line with operational policing purposes.

Moreover, there is no requirement under the Act for the service to create new information in order to provide a response for any specific request for information.

## What training do officers receive in relation to public places? For example do officers understand the difference between private roads with public access (considered a public place) and with no public access (not considered a public place).

Police Constables receive training on commencement of their service in respect of many aspects of legislation that have definitions to enable them to understand the competence of applying the said legislation.

For example, and importantly in this case, the definition of a road which is contained under the Roads Scotland Act 1984 is described as a “Road means any route(other than a waterway) over which there is a public right of passage (by whatever means) and includes the road verge or footway and any bridge (permanent or temporary) over which, or tunnel through which the road passes, and any reference to a road includes a part thereof”.

Beyond initial training, Police Constables will be expected to use legal or partnership resources (such as Transport Scotland or Local Authority Road and Planning departmernts) to ensure that when applying legislation in relation to suspected offences, on roads other public places, that they are held to be roads or public places and appropriate to the legislation concerned.

## What public awareness/briefings does Police Scotland utilise to inform the public that e-scooter use on public roads and private roads (with public access) is illegal?

Police Scotland currently does not provide awareness or briefings to the public in relation to the illegal use of e-scooters on public roads or private roads (with public access) as it is the responsibility of the owner/user or e-scooters and e-bikes to ensure they are operating these in accordance with restriction on speed and power output.

As such information is not held by Police Scotland, section 17 of the Act therefore applies.

If persons decide to use off-road electric bikes, or an e-bike or e-scooter that has been de-restricted or adapted, which can exceed 15.5mph without pedalling or has a power output greater than 250 watts, these would be regarded as mechanically propelled vehicles under Section 185 of the Road Traffic Act 1988 and capable of being stopped and seized with the rider reported for road traffic offences.

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.