| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-0847  Responded to: 10 April 2024 |
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Your recent request for information is replicated below, together with our response.

## I am writing to make a Freedom of Information request regarding a recent incident involving a low flying Police Scotland helicopter flying at an estimated 200 feet above a congested area in Glasgow City.

## The flight took place directly above Sauchiehall Street at 18:57 on 24/03/2024 before moving to different locations and hovering. I believe this detail should be enough to identify the flight in question.

## I would like to request the following information:

## 1.Confirmation that the helicopter involved was indeed a Police Scotland helicopter.

The Police Scotland Helicopter was deployed in Glasgow City centre on Sunday 24/03/24 between 1850 hours and 1925 hours.

## 2.(a)Confirmation of whether the Police Scotland helicopter flight was conducted with proper exemption in accordance with the Civil Aviation Authority (CAA) regulations, particularly those concerning flights over congested areas.

Police Scotland helicopter operates with CAA exemptions: Bulit up area (Urban) Daytime – Does not operate below 300ft, minimum 1.5km visibility. Nighttime – Does not operate below 600ft, minimum 5km visibility.

## (b) If the flight was conducted properly, please provide relevant documentation to demonstrate compliance.

## 3. A comprehensive record of the flight log for the aforementioned helicopter flight, detailing the date, time, route, altitude, and purpose of the flight.

The flight was operated in accordance with CAA exemptions.

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the specific documentation requested.

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.

All of the information requested is held for the purposes of an investigation.

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

**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.

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 the resources available in a specialised area of policing, which would allow those intent on wrong doing to judge the police response 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.

Public Interest Test  
As you will be aware, the exemption detailed above is non-absolute and requires the application of the public interest test. Public awareness would favour a disclosure as it would contribute to the public debate surrounding the use and deployment of this specialist equipment.

That said, I would contend that the efficient/effective conduct of the service and public safety favours retention of the information as it cannot be in the public interest to release information that would prejudice law enforcement or which is likely to have an adverse impact upon public safety.

**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 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.

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](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) 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.