| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-1931Responded to: xx August 2024 |
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Your recent request for information is replicated below, together with our response.

**I am making this FOI request regarding how the Police Scotland conducts subject access requests in respect to body worn video and internal communications within Police Scotland.
Please note I have already investigated both the DPIA guidance for body worn video created by police Scotland and police Scotland's standard operating procedure in regards to data protection SOP. Please answer the following questions;**

1. **Does police Scotland have a DPIA evaluation similar to DPIA of AUG 2021 (On BWV) evaluating the impact of sharing police Scotland's email contents relating to an individual regarding data protection?**

There is no Police Scotland Data Protection Impact Assessment (DPIA) in relation to sharing the content of emails with individuals in terms of subject access requests (SARs). There is no DPIA in relation to SARs more generally.

Section 17 of the Act therefore applies as the information sought is not held.

1. **If a member of the police specifically refers to the member of the public who can be identified, directly or indirectly in internal police communications (Redactions of personal data such as other names and email addresses are of course expected to be redacted as are other subjects are in BWV.)**

**(a) Does the police provide this information through a SAR from that member of the public? if not, under what provisions does the police exempt this data.**

In terms of whether an ‘internal police communication’ would be provided to an applicant as part of a SAR disclosure, there is no specific policy or guidance document that would cover that scenario and section 17 of the Act therefore applies.

To be of assistance, I can advise you that individuals have a right of access to their own personal data being processed by Police Scotland, subject to various exemptions set out in the GDPR and Data Protection Act 2018.

Such information may be disclosed but it would be entirely dependent on the content as opposed to the nature of the document and whether any exemptions were considered to apply.

All SARs are assessed on a case-by-case basis.

**(b) Does the police in the belief that information such as emails about a private individual are owner of the communicator (the writer of the email or communication) and as such not requestable under a SAR?**

The Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only. Requests that seek comment or opinion are not therefore valid.

For clarity, I can advise that there is no recorded information held by Police Scotland that concerns ownership of emails and section 17 of the Act therefore applies.

To be of assistance, I would advise you that *all* information processed by Police Scotland is considered subject to SAR processes.

**(c) Does the police blur the contact information & other personal data of the other non-relevant subjects? and any other sensitive information within these internal communications?**

**(d) Does the police properly remove sensitive information within these internal communications when they are provided as part of a SAR?**

When responding to SARs, Police Scotland use a redaction to tool to remove information that is either outwith the scope of the request or which is considered to be exempt.

Redated information will appear to be ‘blacked out’ in SAR responses - for example:

*When responding to SARs, xxxxxxxxxxxxxxx use a redaction to tool to remove information that is either outwith the scope of the request or which is considered to be exempt.*

1. **If a member of the police specifically refers to the member of the public who can be identified, directly or indirectly in body-worn footage. i.e. individual not physically seen in the footage and the individuals voice is not recorded.**

**(a)** **Does the police provide this information through a SAR? if not, under what provisions does it exempt this data (not including redactions of personal data of other subjects as this would be protected data.)**

In terms of whether body worn camera footage would be provided to an applicant as part of a SAR disclosure, there is no specific policy or guidance document that would cover that scenario and section 17 of the Act therefore applies.

To be of assistance, I can advise you that individuals have a right of access to their own personal data being processed by Police Scotland, subject to various exemptions set out in the GDPR and Data Protection Act 2018.

Such information may be disclosed but it would be entirely dependent on the content as opposed to the nature of the information and whether any exemptions were considered to apply.

All SARs are assessed on a case-by-case basis.

**(b) Does the police believe that information such as conversations about a private individual are owner of the communicator (the speaker) and as such not requestable under a SAR?**

The Freedom of Information (Scotland) Act 2002 provides a right of access to recorded information only. Requests that seek comment or opinion are not therefore valid.

For clarity, I can advise that there is no recorded information held by Police Scotland that concerns ownership of footage and section 17 of the Act therefore applies.

To be of assistance, I would advise you that *all* information processed by Police Scotland is considered subject to SAR processes.

**Also, if possible, guidance and policy provided to the police corporates division would be very useful in understanding the decision processes and training given. An example of policy would be, how we blur faces, how and when we decide that the data actually belongs to the user, What data should be redacted, etc.
Please note that under GDPR impetration regarding subject access requests from (Police Scotland Standard Operating procedure)**

Beyond the Data Protection SOP which I note you have already reviewed, there is no guidance that covers the topics listed and section 17 of the Act therefore applies.

1. **Data subject means the identified or identifiable living individual to whom personal data relates.**
* **Identifiable Living Individual is one who can be identified, directly or indirectly, in particular by reference to:**
* **an identifier such as a name, ID number, location data or online identifier, or**
* **one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual**
* **Personal Data means any information relating to an identified or identifiable living individual.**
1. **Please state explicitly what legal exemptions would apply to providing the data and any relevant context.**

The information sought is publicly available:

[Data Protection Act 2018 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/2018/12/contents)

The information is therefore 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”.

To be of assistance, the main exemptions used by Police Scotland from the Data Protection Act 2018 are set out at section 45(4) of the Act.

These apply to ‘law enforcement’ information which is relevant to the majority of our SARs.

Other exemptions for non ‘law enforcement’ SARs are set out in the various schedules of the Act.

The most frequently used are set out at Schedule 2, Part 3, section 16 - in relation to third party data - and Schedule 2, Part 1, section 2 - in relation to information processed for the prevention and detection of crime etc.

All of the exemptions listed in the Act can however be used.

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.