| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-1609  Responded to: 18 December 2024 |
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Your recent request for information is replicated below, together with our response.

**With regards to point 2 of your response to FOI 24-1248, please provide:**

**1. The "extensive internal and external consultation process" which led to the 3-hour sleep policy.**

Firstly, please accept our sincere apologies for the delay in responding.

In terms of the consultation process concerning the policy detailed at section 15.2 (Frequency of Visits) of the [Care and Welfare of Persons in Police Custody SOP](https://www.scotland.police.uk/spa-media/0mfjn3pa/care-and-welfare-of-persons-in-police-custody-sop.pdf), I can advise as follows;

All Standard Operating Procedures and their associated EqHRIA, are subject to local and mandatory consultation, whereby all relevant people / subject experts / departments are invited to feedback on both the guidance document and EqHRIA.

The stakeholders for this particular document included internal stakeholders in Health & Safety, Criminal Justices Service Division and the Association of Scottish Police Superintendents. They were given the opportunity to provide feedback and support development of the specific sections linked to their areas of business to ensure consistency with other policies and procedures:

Staff associations were also invited to comment, including the GMB, Scottish Police Federation, UNISON and Unite.

**2. The completed Equality and Human Rights impact assessment.**

The information sought 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 section 25(1) exemption applies:

“Information which the applicant can reasonably obtain other than by requesting it […] is exempt information”.

A copy of the EqHIRA is available on the Police Scotland Website via the link below:

[Access to Information - Police Scotland](https://www.scotland.police.uk/access-to-information/).

**3. The deliberations/decisions which determined that the impact of that 3-hour sleep policy did not amount to a breach of either Equality or Human Rights.**

**4. Ditto health impacts of only allowing 3 hours' sleep and how this was determined as acceptable.**

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

Under Section 16 of the Act this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

Section 30(b) – Free and frank provision of advice or exchange of views

Information is exempt under sections 30(b) if disclosure would, or would be likely to, inhibit substantially:

(i) the free and frank provision of advice or

(ii) the free and frank exchange of views for the purposes of deliberation.

The exemptions in section 30(b) focus on the effect that disclosure of information would have (or would be likely to have) on the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation. The sharing of this content would likely have a negative impact on the effective conduct of public affairs.

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

Public Interest Test

It could be argued that there is a public interest in disclosure of such information as it would contribute to greater transparency and openness. That said, this must be tempered against what is of interest to the public and what is in the public interest.

Although the Act does not define the public interest it has been described as “something which is of serious concern and benefit to the public,” not merely something of individual interest.

I would contend that any consultation and/or discussions refer to a draft format and that such information is always subject to change. It is not appropriate for early drafts, comments or amendments to be made publicly available as this discussion process is vital to ensure that all stakeholders viewpoints and opinions are gathered in a transparent and open manner without the fear of these workings being released.

As such the balance of the public interest test favours retention of the information.

Nevertheless, to be of some assistance I can confirm that the three hour sleep policy detailed at section 15.2 (Frequency of Visits) was first introduced in 2018 and the corresponding rationale can be summarised as follows:

The policy of the sleep period not exceeding three hours has been adopted from best practise in England and Wales, which is fully supported by HMICS and all NHS boards in Scotland who have been involved in the protracted consultation on this amended rousing policy over the last two years.

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.