

29 June 2022

2022-036

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

REQUEST DETAILS

Please find below our response to your correspondence dated 7 June, in which you made the following request under the Freedom of Information (Scotland) Act 2002:

Can I please get a copy of the report mention at 2.8?

<https://www.spa.police.uk/spa-media/l13jpucr/rep-c-20221904-item-8-fs-committee-drug-driving-update-public-final.pdf>

"The dialogue continued following the last Forensic Services Committee meeting, so the draft tri-partite Position Paper has been updated and agreed. This paper has now submitted to the Scottish Government for consideration."

RESPONSE

Your request for information has been considered and the Scottish Police Authority (SPA) is able to provide the following;

The information requested is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act).

The exemptions considered to be applicable are as follows:

Section 29(1)(a) Formulation of Scottish Administration policy etc.

Information is exempt under this Act if it relates to the formulation or development of government policy.

Section 30(b) Prejudice to effective conduct of public affairs

Information is exempt if its disclosure under this Act would, or would be likely to, inhibit substantially 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 information requested details early thinking and perspectives from SPA Forensic Services, and partners, and is intended to inform the development of government policy. The Authority and partners need to feel able to put forward all perspectives, options and appraisal of such, for the strongest policy to be developed. They may be deterred from doing so if it was perceived likely that such thinking and perspectives would be published while decisions have yet to be made.

Section 33(1) (b) – Commercial Interest

Information is exempt if its disclosure under this Act would, or would be likely to, prejudice substantially the commercial interests of any person.

Any relevant information supplied by a company is provided with the expectation that whilst remaining relevant, and commercially sensitive, this will be held by the Authority and not disclosed as another organisation may gain a competitive advantage from this information. If the information was disclosed this may, in the future, reduce the number of companies tendering for the supply of goods and services, if aware that the Authority will disclose commercially sensitive information. This is likely to negatively impact the tendering process to ensure purchase of the most efficient and cost effective services in the future, and prejudice the commercial interests of the Authority.

Section 35 (1) (a)(b) – Law Enforcement

Information is exempt, if its disclosure would, or would be likely to, prejudice substantially the prevention or detection of crime and apprehension or prosecution of offenders.

Release of the information would adversely impact on the prevention and detection of crime and the criminal justice sector as a whole. Being aware of details would allow persons to make a reasonable assessment of likely future detection or prosecution. This in turn would allow those individuals to make an assessment of the capacity of the criminal justice sector to deal with incidents of this nature.

The exemptions considered applicable are all non-absolute exemptions and require the application of the Public Interest Test.

Public Interest Test

The public interest factors in favour of disclosure is that:

- There is a public interest on the basis that it could lead to greater transparency and further public debate on use of resources;
- It would provide an understanding of how Forensic Services and partners provide a key role in protecting the public.

The public interest factors in favour of maintaining the exemptions being:

- Protecting the quality and effectiveness of the decision-making process and policy development, without premature disclosure, to ensure public confidence in decision making;
- The outcome, in terms of a policy decision, will be in the public domain once confirmed and this goes a long way to satisfying the public interest in this matter;
- The public interest in SPA Forensic Services being able to devise and share early thinking on strategies for progressing its work, unencumbered by premature disclosure of options and possible solutions;
- The flow of information to and from the Authority would be harmed. If individuals were unwilling to contribute to deliberations or put forward proposals fearing initial views were publicly available, or non-factual information disclosed prior to matters being finalised, the purpose of such deliberation and efforts to achieve honest opinions, would be hindered;
- The Authority is a publicly funded organisation and therefore has an obligation to obtain best value for money with procured services. In order to do this, it is essential to maintain working relationships with companies that tender their services;
- The subject matter should not just be of interest to the public, but something which is of serious concern and benefit to the public. It can never be in the public interest to compromise law enforcement which, in turn, may compromise public safety.

On balance, our conclusion is that maintaining the exemption outweighs that of disclosure.

By way of assistance, we would note that once a policy decision is reached and communicated this will be tabled at a public meeting of the Forensic Services Committee.

RIGHT TO REVIEW

If you are dissatisfied with the way in which your request has been dealt with you are entitled, in the first instance, to request a review of our actions and decisions

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@spa.police.uk or by post to Corporate Management Team, Scottish Police Authority, 1 Pacific Quay, Glasgow, G51 1DZ.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision.

You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Scottish Police Authority Freedom of Information [Disclosure Log](#) in seven days' time.