



Scottish Information
Commissioner
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Decision Notice 314/2025

Offences recorded by speed cameras

Authority: Chief Constable of the Police Service of Scotland

Case Ref: 202500476

Summary

The Applicant asked the Authority for details of offences recorded by the speed cameras which were switched off by Safety Cameras Scotland. The Authority withheld the offence data stating that disclosure would be likely to substantially prejudice its ability to prevent and detect crime, to prejudice its ability to apprehend and prosecute offenders and be likely to endanger the physical or mental health or safety of an individual. The Commissioner investigated and found that the Authority was not entitled to withhold the information and required the release of the data held, with location information.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 2(a) and (b) (Effect of exemptions); 35(1)(a) (prevent and detect crime) 35(1)(b) (apprehend and prosecute offenders); 39(1) (health and safety); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 9 August 2024, the Applicant made a request for information to the Authority. He asked "Under Environmental Information Regulations, I wish to request the following:

Details of offences recorded by the 119 speed cameras which were switched off by Safety Cameras Scotland this summer. I would like the total for the year 2023 for each camera, plus their individual monthly totals for 2024 up to the point the cameras were switched off.

By way of explanation, cameras at these locations were made 'dormant' after a review found that - due to altered driver behaviour - they were no longer required.

Some had been in place for 25 years.

By providing me with the requested information, it would demonstrate if offending was still taking place around the time of de-activation."

2. The Authority responded on 25 September 2024 in terms of the Environmental Information (Scotland) Regulations 2004 (the EIRs). It provided information relating to mobile camera sites, but withheld information relating to fixed, dual and red-light cameras under the exception in regulation 10(5)(a) of the EIRs. The Authority considered that while there may be a public interest in disclosing this information, as it may contribute to the transparency of decision making, this interest is outweighed by the public interest arising from the obligation to protect the public.
3. On 27 September 2024, the Applicant wrote to the Authority requesting a review of its decision. He explained that he was dissatisfied with the Authority's decision because:
 - it had provided him with data for mobile sites, which he had not requested
 - he did not believe the exception in regulation 10(5)(a) of the EIRs had been correctly applied
 - the public interest test had not been properly applied and in any event, the public interest favoured disclosure.
4. The Authority notified the Applicant of the outcome of its review on 25 October 2024, which fully upheld its original decision.
5. On 29 October 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. By virtue of regulation 17 of the EIRs, Part 4 of FOISA applies to the enforcement of the EIRs as it applies to the enforcement of FOISA, subject to specified modifications. The Applicant stated that he was dissatisfied with the outcome of the Authority's review for the same reasons set out in his requirement for review.
6. Following an investigation by the Commissioner, [Decision Notice 025/2025](#)¹ was issued on 4 February 2025. This Decision found that the Authority should have responded to the Applicant's request under FOISA as opposed to the EIRs. In responding under the EIRs, the Authority failed to comply with Part 1 of FOISA. Decision Notice 025/2025 required the Authority to provide a response to the Applicant's requirement for review in terms of section 21 of FOISA and in respect of the withheld information only, by 21 March 2025.
7. On 20 March 2025 the Authority issued a revised review response under FOISA instead of the EIRs as per [Decision Notice 025/2025](#)². The Authority continued to withhold the speed camera offence data, this time relying on sections 35(1)(a) & (b) and section 39(1) of FOISA. The Authority also noted that while it could be argued that public awareness and safety camera partnership accountability favour disclosure, it contended that the application of the exemptions listed and the efficient/effective conduct of the Authority and overall public safety favour non-disclosure of the information.

¹ <https://www.foi.scot/decision-0252025>

² <https://www.foi.scot/decision-0252025>

8. On 27 March 2025 the Applicant submitted a new appeal, stating that he was dissatisfied with the Authority's reliance on sections 35(1)(a) and (b) and 39(1). The Applicant was also dissatisfied with the Authority's analysis of the public interest test.

Investigation

9. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
10. On 28 March 2025, the Authority was notified in writing that the Applicant had made a valid application. The Authority was asked to send the Commissioner the information withheld from the Applicant. The Authority provided this information to the Commissioner, and the case was subsequently allocated to an investigating officer.
11. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on this application and to answer specific questions. These focused on the Authority's justification for withholding the information requested under (variously) the exemptions in section 35(1)(a), section 35(1)(b) and section 39(1) of FOISA (including consideration of the public interest test where necessary) and the searches carried out to identify whether the Authority held any further relevant information.
12. The Applicant was also invited to provide any further comment he wished to make as to why he considered the balance of the public interest to lie in disclosure of the withheld information.
13. During the course of the investigation, the Authority informed the Commissioner that the Camera Safety Partnership had indicated that they would be willing to disclose the data in relation to the temporary pause fixed cameras anonymously. The Authority asked the investigating officer to ascertain if this would be acceptable to the Applicant. The Applicant confirmed that it would not.
14. Further submissions were sought and received from the Authority during the course of the investigation.

Commissioner's analysis and findings

15. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Contextual information

16. The Authority explained that in April 2024 more than 100 speed cameras across Scotland were deactivated due to improved driver behaviour and reduced speeding incidents.
17. The decision to deactivate these cameras was made after a review by the Scottish Safety Camera Programme (SSCP) who found that the cameras were no longer needed to achieve the desired safety outcomes. SSCP announced the pause in live deployments while maintaining the infrastructure and signage at these sites.
18. The Authority commented that driver behaviour had improved and there was a reduction in collisions. The Authority noted that a national review of the speed camera network was undertaken to assess their effectiveness and impact on road safety, strategic deployment and this is a pause and assessment period of 3 years. The Authority stated that the cameras are being paused, meaning they are not actively recording speeding violations, while sites

are being monitored over a 3-year period. After this period a decision will be made on whether to reactivate or decommission them.

19. The Authority was also asked about the cameras and whether every time a camera is triggered, this resulted in an offence.
20. In response the Authority advised that when a camera is “triggered” (which the Safety Camera Unit typically refer to as an ‘activation’), the evidence must be viewed and a determination made as to whether an offence has been committed or not. By way of example, the Authority explained that the ‘offence’ figures would exclude emergency service vehicles, which are exempt, or those with sufficient image quality issues that meant secondary checks to determine if an offence was committed were not possible.
21. The Authority clarified that the original FOI request asked for the number of ‘offences’ at each camera and so that is what was being withheld as opposed to the number of ‘activations’.

Section 35(1)(a) and (b) - Law enforcement

22. Section 35(1)(a) exempts information if its disclosure would, or would be likely to, prejudice substantially the prevention or detection of crime. As the Commissioner’s [guidance on the exemptions in section 35](#)³ highlights, the term “prevention or detection of crime” is wide ranging encompassing action taken to anticipate and prevent crime, or to establish the identity and secure prosecution of persons suspected of being responsible for committing a crime. This could mean activities in relation to specific (anticipated) crime or wider strategies for crime reduction and detection.
23. Section 35(1)(b) exempts information if its disclosure would, or would be likely to, prejudice substantially the apprehension or prosecution of offenders. As the Commissioner’s guidance states, there is likely to be some overlap between information relating to “the apprehension or prosecution of offenders” and that relating to “the prevention or detection of crime”. Section 35(1)(b) is narrower and focusses on the process of identifying, arresting or prosecuting those suspected of being responsible for unlawful activity. Again, this term could refer to the apprehension or prosecution of specific offenders or to more general techniques such as investigative processes used, information received, or guidance given, and strategies designed for those purposes.
24. There is no definition of “substantial prejudice” in FOISA, but the Commissioner considers that the authority would have to identify harm of real and demonstrable significance, which would be at least likely, to follow disclosure, and be more than simply a remote possibility.
25. The exemptions in section 35(1)(a) and (b) are subject to the public interest test in section 2(1)(b) of FOISA.

The Authority’s submissions on section 35(1)(a) and (b)

26. In its submissions, in support of its application of the exemptions in both section 35(1)(a) and (b) the Authority advised that it is already known that the purposely visible cameras seen from the road are in fact fixed camera housings. Not all housings contain cameras and whilst the housings are purposely visible deterrent’s, it is not possible to detect an empty housing when passing.

³ <https://www.foi.scot/sites/default/files/2022-04/BriefingSection35LawEnforcement.pdf>

27. The Authority stated that cameras are rotated between housings, but the housings, whether they contain a camera or not are an effective speeding deterrent regardless.
28. When asked how disclosure of the number of offences captured by the cameras would prejudice the detection and prevention of crime, the Authority argued that driver behaviour would be adversely affected in that they would no longer obey the speed limit, safe in the knowledge that they could avoid detection. Consequently, the camera sites would no longer retain their deterrent effect.
29. The Authority submitted that cameras are strategically located for the primary goal of altering driver behaviour, thereby improving road safety for all. The Authority argued that if information relating to those camera sites which have very few detections were to be disclosed this would negate the deterrent effect of the camera housings. Thereby prejudicing the ability of the Authority to prevent and detect crime.
30. The Authority referred to evidence which suggested that camera housings are often subject to vandalism in an effort to render them inactive. It was the Authority's view that disclosure of this information would allow the location of cameras to be known and therefore these would be more likely to be targeted by vandals.
31. As mentioned previously, the Authority stated that the SSCP's rationale for turning the cameras off was because there was an observed improvement in driver behaviour at those sites and the cameras were strategically switched off in line with a lowering of collisions.
32. When asked how disclosure of the number of offences captured by the cameras would prejudice the apprehension and prosecution of offenders, the Authority stated that camera activations lead to detected speeding offences.
33. The Authority explained that most motorists would receive a Conditional Offer of Fixed Penalty Notice which they can choose to pay or face prosecution. Other motorists, depending on the severity of the offence or any previous speeding, may be immediately reported to the Crown Office and Procurator Fiscal Service.
34. The Authority added that disclosure would increase speeding in those locations where people believe there is no active deterrents. This would in turn decrease the number of offenders being apprehended or subsequently prosecuted.

The Applicant's Submissions on Section 35(1)(a) and 35(1)(b)

35. The Applicant stated that the Authority do not appear to have set out separate cases for withholding the information under section 35(1)(a) & (b).

The Commissioner's view on Section 35(1)(a) and 35(1)(b)

36. The Commissioner has fully considered all of the submissions from both parties along with the withheld information itself.
37. Having done so, the Commissioner is unable to accept that, in this case disclosure of the number of offences recorded by fixed, red light and dual traffic speed cameras in 2023 and the first seven months of 2024, would, or would be likely to, prejudice substantially the prevention or detection of crime and/or the apprehension or prosecution of offenders.
38. Whilst there is evidence that demonstrates that speed cameras influence driver behaviour⁴. The effectiveness of that varies greatly when considering driver perceptions of law

⁴ <https://library.college.police.uk/docs/what-works/SR8-Speed-Cameras-2017.pdf>

enforcement⁵. There is agreement that speeding increases the severity and frequency of road traffic accidents, specifically fatalities in road accidents globally (World Health Organisation, 2023⁶).

39. That said, it was noted, in the course of the investigation, that the locations of the cameras that have been switched off are a matter of public record, having been published by multiple national media outlets⁷. Furthermore, Scottish speed camera locations can be found on the Police Scotland Safety Camera website Home — Police Scotland Safety Cameras⁸.
40. Given that the data withheld in this case is historic, and the cameras are no longer being used as a means of preventing and detecting crime, whether the housing has a camera inside it or not. Together with the fact that it is public knowledge as to the whereabouts of these cameras, the Commissioner is unable to accept that disclosure of this data would or would be likely to prejudice substantially the prevention or detection of crime.
41. Similarly, as the specific cameras concerned are no longer capable of being triggered, the Commissioner is unable to accept that disclosure of the requested information would, or would be likely to, prejudice substantially the apprehension or prosecution of offenders.
42. Given that the exemption in section 35(1)(a) and 35(1)(b) of FOISA was wrongly applied, the Commissioner is not obliged to consider the application of the public interest test in section 2(1)(b) of FOISA.

Section 39(1) – Health, safety and the environment

43. Section 39(1) of FOISA states that information is exempt information if its disclosure under FOISA would, or would be likely to, endanger the physical or mental health or the safety of an individual (which may include a group of people). This is a qualified exemption and is subject to the public interest test required by section 2(1)(b) of FOISA.
44. As the Commissioner notes in his briefing on the exemption⁹, section 39(1) does not contain the usual harm test. Instead of the "substantial prejudice" test found in many other harm-based exemptions in Part 2 of FOISA, this exemption refers to the "endangerment" of health or safety. This test is less demanding than the "substantial prejudice" test but still requires there to be a genuine link between disclosure of the requested information and the endangerment: it cannot simply be a remote or hypothetical possibility.
45. The Commissioner's view is that the term "endanger" is broad enough to apply where there is a (direct or indirect) threat to the safety of a person which would foreseeably arise in the future, as well as immediate harm, since the exemption does not specify that any threat should be imminent before it applies.
46. The Commissioner believes that, for endangerment to be considered likely, however, there must be some well-founded apprehension of danger, such that the prospect of harm could reasonably be regarded as a distinct possibility.

The Authority's submissions on section 39(1)

⁵ <https://www.tandfonline.com/doi/full/10.1080/10439463.2025.2573332?src=#abstract>

⁶ <https://iris.who.int/server/api/core/bitstreams/46275f9f-ef66-4892-8ddd-a496ef8c1b74/content>

⁷ <https://news.stv.tv/scotland/full-list-of-100-speed-cameras-to-be-turned-off-across-scotland>

⁸ <https://www.safetycameras.gov.scot/cameras/safety-camera-locations/>

⁹ https://www.foi.scot/sites/default/files/2023-07/BriefingSection39HealthSafetyandtheEnvironment_2023.pdf

47. The Authority was asked to substantiate its claim about the real-world risk derived from disclosing the offence data in response to the Applicant's request.
48. The Authority stated that speed is a contributory factor in the seriousness of collisions and any increase in speeding behaviour will lead to an increased risk to all road users.
49. The Authority observed that any deterioration of driver behaviour would increase the risk to public safety. The function of speed cameras is to prevent speeding, the sites selected may be reassessed at any time and reactivated depending on driver behaviour. The locations were selected initially because they were high risk areas for adverse driver behaviour which is a direct risk to all.

The Applicants submissions on section 39(1)

50. The Applicant argues that the Authority failed to justify withholding the information. He claims the Authority only stated that disclosure would indicate recent camera operations at 119 locations, without explaining how this could harm anyone's physical or mental health. The applicant also asserts that no evidence was provided to show a genuine and realistic threat to public safety, and since the request was only for offence numbers, it would not influence driver behaviour.
51. The Applicant argues that the exception cannot apply if harm is only a remote or hypothetical possibility, and the Authority has not shown a significant probability of substantial prejudice. They stress that a genuine link between disclosure and harm is required.

The Commissioners View on section 39(1)

52. The Commissioner has to be satisfied that the health or safety of individuals would, or would be likely to, be endangered as a direct result of the disclosure of the withheld information.
53. The Commissioner acknowledges that there is evidence that demonstrates that speeding increases the severity of road traffic accidents, specifically the number of fatalities on roads. The Commissioner accepts that evidence supports this conclusion. Nonetheless, the Commissioner does not agree that the Authority has demonstrated the causal chain required to evidence that the historic data withheld in this case would directly endanger the health and safety of road users.
54. It is acknowledged that speed cameras have an effect on driver behaviour but that the complexity of influence on driver behaviour extends beyond the obvious use of speeding deterrents. Attitudes and perceived driver competence also play a role in this. For this exemption to apply the direct link between the withheld data and threat to safety must be established. The arguments advanced by the Authority in relation to this exemption are based on the idea that the cameras, when active, allow the Authority to monitor speeds in those locations. That speeding is a health and safety risk for all road users and that disclosing the data in this case would give away the location of cameras, thus drivers would be more likely to speed, knowing which of these are not in use. However, as already mentioned, the Commissioner is aware that the switched off camera locations are already publicly available, having been reported on websites and cited in national news articles. The guidance for fixed cameras also states that those cameras must be visible, whether they contain an actual camera or are an empty housing.
55. The Commissioner observes that one of the tools used to ensure speed compliance are fixed cameras but, in this case, certain of those cameras have been turned off. The reason given by the Authority for the decision to deactivate these cameras was because of an

improvement in driver behaviour leading to a reduction in collisions. It is contradictory to then take the position that the deactivated cameras would immediately see an increase in speeds thus severity of collisions at those sites.

56. Historic data showing the activations that led to previous offences at locations already known cannot hinder current or future prosecutions or necessarily affect public safety, given the cameras have been turned off. Any deterrent effect the cameras may have had when in use, is no longer relevant.
57. The Commissioner also acknowledges that the Authority advised that the SSCP's decision to turn cameras off at those locations was taken because there was an improvement in driver behaviour which led to a reduction in collisions. If that is the case, then the data being withheld would support this decision making. This would also support the idea that health and safety of road users in those locations had improved to such an extent that speed camera deterrents were no longer required. Consequently, the Commissioner finds it difficult to uphold the assertion by the Authority that disclosure of the historical data would, or would be likely to, endanger the physical or mental health or the safety of an individual.
58. Having concluded that disclosure of the information in this case would not, and would not be likely to, endanger the physical or mental health or safety of any person, the Commissioner finds that the exemption in section 39(1) was incorrectly applied to the withheld information by the Authority.
59. Given that the exemption in section 39(1) of FOISA was wrongly applied, the Commissioner is not obliged to consider the application of the public interest test in section 2(1)(b) of FOISA.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

The Commissioner finds that Authority was not entitled to rely on the exemptions in sections 35(1)(a) and (b) and 39(1) of FOISA for withholding information from the Applicant.

The Commissioner therefore requires the Authority to release the withheld data, by 5 February 2026.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

David Hamilton

Scottish Information Commissioner

22 December 2025