



Heddlu Police
DYFED-POWYS

FOI Reference: 097/2021

Request:

1. The number of **crimes** recorded by your force between **1/1/2020 and 31/12/2020** in which the **initial** incident detail mentions the word “e-scooter” or “electric scooter”.

Please provide a breakdown of these crimes including:

- i) the month of the crime(s)
 - ii) the offence(s) recorded
 - iii) the investigation outcome
 - iv) a summary of the crime report describing the circumstances of the offence
2. The number of non-crimed **incidents** recorded by your force between 1/1/2020 and 31/12/2020 in which the initial incident detail mentions the word “e-scooter” or “electric scooter”.

Please provide a breakdown of these incident including:

- i) the month of the incident
- ii) a summary of the incident report

Response 1:

I can confirm that Dyfed-Powys Police does hold the information requested; however we are exempting part of that information as we believe that the following exemptions are relevant:

Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities
Section 40(2) Personal Information

i)

Crime's with specified words 2020

Month	number
April	1
Nov	1
Total	2
Section 30 exemption applied x 1	

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ii)

Offence's recorded

Crime	count
HARASS4A Public Fear, Alarm or Distress - Public Order Act Sec 4a	1
BURGRESID Burglary - Residential	1
Total	2
Section 30 exemption applied x 1	

iii)

Investigation outcome

Outcome	count
Crime Status: 16 Victim does not (or has withdrawn) support - named suspect	1
Crime Status: 18 Investigation Complete: No suspect identified	1
Total	2
Section 30 exemption applied x 1	

iv)

Crime summaries

Section 40 exemption applied in part
The suspect has made derogatory comments to the IP as ■■■ had a scar on ■■■ face, during an argument over unavailable ■■■ causing the IP to feel offended by this.
IP has stated that ■■■ ■■■■ has been broken into and a electric scooter has been removed from within
Section 30 exemption applied x 1

Response 2:

I can confirm that Dyfed-Powys Police does hold the information requested; however we are exempting part of that information as we believe that the following exemption is relevant:

Section 40(2) Personal Information

i)

Incidents with specified words 2020

Month	Count
June	4
September	1
October	3
November	3
December	1
Total	12

ii)

Incident's summary

Section 40 exemption applied in part
█ OFTEN GOES AROUND ON ELECTRIC SCOOTER
A █ LEFT THE HOUSE ON AN ELECTRIC SCOOTER YESTERDAY MORNING TOO
█ + █ - ATTENDED THE SCENE. WE SPOKE WITH TWO █ WHO WERE WITH THE ELECTRIC SCOOTER AT THE SIDE OF THE ROAD, THEY WERE NOT RIDING IT ON THE ROAD. THE █ WERE █
A : █ RIDING AN ELECTRIC SCOOTER IN THE ROAD, █ ALMOST COME OFF IT A FEW TIMES. ROAD IS QUITE BUSY WITH TRAFFIC AND CONCERNS █ GOING TO CAUSE AN RTC
AND THERE IS A █ HERE WITH AN ELECTRIC SCOOTER
MY ELECTRIC SCOOTER BROKE DOWN
WITH MY ELECTRIC SCOOTER
I THINK ONE OF THEM WAS ON AN ELECTRIC SCOOTER KIND OF THING, BUT IM NOT SURE
SOMEONE HAS BEEN AROUND MY AREA TODAY ON AN ELECTRIC SCOOTER
SOMEBODY HAS NICKED AN ELECTRIC SCOOTER AOUT OF THE █
A ELECTRIC SCOOTER WAS STOLEN FROM WITHIN AND HAS BEEN FOUND BY THE VICTIM A SHORT DISTANCE AWAY.
On speaking with █, appears █ electric scooter ran out of battery and █ had to walk home, which meant █ was late home, hence the report.

Explanation of the applied exemptions:

Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities:

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of –

(a) Any investigation which the public authority has a duty to conduct with a view to it being ascertained (i) whether a person should be charged with an offence, or (ii) whether a person charged with an offence is guilty of it.

Section 30(1)(a) is a class-based qualified exemption. This means that the legislators when writing the legislation considered that the release of such information under the Freedom of Information Act 2000 would cause harm to the public authority or individual concerned. There is therefore no requirement to carry out a HARM Test in respect of such information. However there is a requirement to carry out a Public Interest Test in order to establish whether the public interest in maintaining the exemption may be outweighed by a wider public benefit in disclosure.

Public Interest Test

Considerations favouring disclosure:

Disclosure of the information would improve the public's knowledge and awareness regarding the frequency of such crimes.

Considerations favouring non-disclosure:

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This exemption covers information held at any time for the purpose of an investigation, whether the case is ongoing, closed or abandoned. To release details of an ongoing investigation, as in this case, could undermine and prejudice those investigations. This would impact on the forces' future law enforcement capabilities by hindering the prevention or detection of crime.

Balancing Test

After considering the advantages and disadvantages in disclosure, it falls upon Dyfed-Powys Police to conduct a balance test on the issues. The strongest argument for disclosure, which is public awareness, needs to be weighed against the strongest arguments for non-disclosure, which in this case is that the release would undermine and prejudice an ongoing investigation, which would impact on the forces' future law enforcement capabilities by hindering the prevention or detection of crime.

Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 40(2) Personal Information:

Section 40(2) applies to third party personal data and is exempt from disclosure under the Freedom of Information Act 2000 if disclosure, in relation to data subject to law enforcement processing, would breach any of the data protection principles contained within Part 3 - Chapter 2 of the Data Protection Act 2018. Under Section 34 within Chapter 2 "The Controller in relation to personal data is responsible for and must be able to demonstrate, compliance with" Chapter 2. Such information would not be released under the Freedom of Information Act 2000 unless there is a strong public interest. One of the main differences between the Freedom of Information Act 2000 and the Data Protection Act 2018 is that any information released under FOI is released into the public domain, not just the individual requesting the information and disclosure under the Act must be made with that in mind. As such, any release that identifies an individual through releasing their personal data, even third party personal data is exempt.

Personal data is defined under Section 3 of the Data Protection Act 2018 as:

"(2) 'Personal data' means any information relating to an identified or identifiable living individual (subject to subsection (14)(c)).

(3) 'Identifiable living individual' means a living individual who can be identified, directly or indirectly, in particular by reference to—

- (a) An identifier such as a name, an identification number, location data or an online identifier, or*
- (b) One or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual."*

All members of the public including those employed by the force have an intrinsic right to privacy and these rights are protected by virtue of the Human Rights Act, the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) and a public authority must not interfere with that right. Any release of the information subject to the exemption is likely to compromise those rights.

Data Protection Act 2018

Part 3 – Law Enforcement – Chapter 2 Principles Section 35

The first data protection principle:

"(1) The first data protection principle is that the processing of personal data for any of the law enforcement purposes must be lawful and fair."

UK General Data Protection Regulation

Article 5 of the UK GDPR – 'Principles relating to processing of personal data' provides:

"1. 'Personal data' shall be

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(a) Processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency);

(b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest...

2. The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')."

Dyfed-Powys Police would not want to disclose any information that could potentially identify an individual. In this particular case, to release particular details within the brief summary could lead to the identification of the individuals involved and to release such information would be a direct breach of Data Protection legislation. Therefore as a consequence I am satisfied that Section 40(2) Personal Information exemption is applicable to the release of the information.

The Section 40 exemption is in part qualified and in part absolute, in the present case it would be absolute as to release the information would breach Data Protection legislation and therefore there is no requirement to carry out a public interest test.

It should be noted that as a result of the systems adopted by Dyfed-Powys Police in relation to the recording of such information that the information released may or may not be accurate.

Furthermore, it should also be noted that Police forces in the United Kingdom are routinely required to provide crime statistics to government bodies and the recording criteria is set nationally. However, the systems used for recording these figures are not generic, nor are the procedures used locally in capturing the crime data. It should be noted that for these reasons this force's response to your questions should not be used for comparison purposes with any other response you may receive.