| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1337  Responded to: 16th June 2023 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

## Firstly, I would like to thank those involved in answering my previous request so fully and timeously. Your reference for that response is FOI 23-1013. This is a further request in relation to The Shellfish (Restrictions on Taking by Unlicensed Fishing Boats) (Scotland) Order 2017.

## That response stated that there had been two recorded crimes under the 2017 order. Please release your files in relation to each case, redacted to remove information that would enable identification of individuals.

## It may be that you consider this would fall under the internal communications exception. I would submit that there is unlikely to be any public interest reason to withhold the communications. If the view is taken that it is in the public interest to use that, or any other exception, please release the following information for each case:

## 1. The date of the action

## 2. How Police Scotland first became aware of the intelligence that there may be a breach of the 2017 regulations.

## 3. What, if any, land-based investigations took place.

## 4. A description of the making of contact with the offender. Was this at sea or on land?

## 5. What exactly was the offence (eg too many razor shells)

## 6. What evidence was considered in taking the enforcement action.

## 7. Whether any defence was offered

## 8. The rationale for the specific enforcement taken - why a case was treated as serious or not.

## Please also detail circumstances of any investigations in relation to this order that did not result in a crime being recorded.

In terms of section 16 of the Act, I am refusing to provide you with the information sought. Section 16 requires Police Scotland to:

(a) state that it holds the information,   
(b) state that it is claiming an exemption,   
(c) specify the exemption in question and   
(d) state, if that would not be otherwise apparent, why the exemption applies.

I can confirm that the information requested is held by Police Scotland and the exemption that I consider to be applicable is set out at section 34(1)(b) of the Act – investigations.

‘Our files’ in relation to both cases are held for the purposes of an investigation which may, in the circumstance, lead to a decision to report a matter to the Procurator Fiscal.

Section 38(1)(b) also applies to the information in part.

To be of assistance, I can advise as follows:

Crime report 1 relates to an incident initially reported on 4 August 2019.  
The allegations were that an individual was in possession of 40 razor clams.  
The locus of the crime is recorded as Pettycur Bay, Kinghorn, Burntisland.

Crime report 2 relates to an incident initially reported on 6 May 2020.  
The allegations were that an individual was in possession of 51 razor clams.  
The locus of the crime is recorded as Pettycur Bay, Kinghorn, Burntisland.

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](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.