| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2195  Responded to: xx September 2023 |
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## Your recent request for information is replicated below, together with our response.

**Request relates to a wildlife related incident which took place on 30/07/2023 within the River Tay at Grandtully:**

Having considered your request in terms of the above Act, I would first of all advise you that the Freedom of Information (Scotland) Act 2002 gives a right to information, not to documents.

Where a public authority chooses not to provide copies of original documentation however, it must ensure that any information which falls within the scope of the request and which is contained in the document is disclosed completely and accurately.

In this case, I have chosen to provide (mostly) actual copies of the documents for ease of response although they have required hard-copy redaction in terms of the removal of operational details, direct email addresses and telephone numbers etc.

In accordance with section 16 of the Freedom of Information (Scotland) Act 2002, this letter represents a Refusal Notice for some of the information sought - that which has been redacted.

Section 16 of the Act requires Police Scotland, when refusing to provide such information because the information is exempt, to provide you with a notice which:

(a) states that it holds the information,

(b) states that it is claiming an exemption,

(c) specifies the exemption in question and

(d) states, if that would not be otherwise apparent, why the exemption applies.

The exemptions which I consider to apply are:

Section 38(1)(b) - Personal information

Section 30(c) - Prejudice to the effective conduct of public affairs

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met. The only potentially applicable condition is set out at Article 6(1)(f) which states:

‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child’.

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject.

Personal data including names, telephone numbers, email addresses and location details have been redacted in accordance with section 30(c) of the Act on the basis that it is assessed that disclosure would result in a prejudice to the effective conduct of Police Scotland.

As intimated above, I have not replicated the introductory and closing details - ‘Hi’,

‘Hello’, ‘Regards’ etc. nor have I included email ‘signatures’.

Any spelling/ grammatical errors are the author’s own, as is any opinion or emphasis.

I can also provide you with the following information which meets the terms of your request.

**1. All reports, logs, information’s, briefings, correspondences, letters, notebook entries (including electric notebooks) or day book entries made in connection with or otherwise with reference to the recent discovery of unauthorised structures within the River Tay at Grandtully or the associated Scottish Canoe Association investigation;**

**2. All emails or other messages sent or received by any party from any official or personal electronic device if used in connection with or otherwise with reference to the recent discovery of unauthorised structures within the River Tay at Grandtully or the associated Scottish Canoe Association investigation;**

All of the relevant information held is attached, subject to the exemptions detailed above.

Please note these mainly refer to the events leading up to and during the investigation where SEPA was the lead agency and accordingly you may wish to submit a request for information to them directly at:

[Access to Information - SEPA](https://www.sepa.org.uk/about-us/access-to-information/)

I can confirm it was concluded that there appeared to be no obvious damage to FWPM habitat and the animals themselves. There was no complaint of vandalism / malicious mischief or other criminality was made to Police and accordingly SEPA were the only agency who needed to investigate the level of damage done to the watercourse in relation to CAR Licences (Controlled Activities Regulations), the ultimate effects it had on the watercourse and how to correct the situation.

**3. All prepared media statements, in full, including any prepared “If Asked” statements not previously released, including any corresponding explanation, background or description prepared in connection with or otherwise with reference to the recent discovery of unauthorised structures within the River Tay at Grandtully or the associated Scottish Canoe Association investigation;**

I can advise you that Police Service of Scotland does not hold any of the information requested by you, i.e. no media statements were prepared or issued by Police Scotland.

In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

**4. Details of any meetings, including any invitation to attend meetings held or proposed in connection with or otherwise with reference to the recent discovery of unauthorised structures within the River Tay at Grandtully or the associated SCA investigation;**

I can confirm that details of all meetings, discussions etc. are recorded within the attached correspondence.

To be of further assistance the timeline below briefly summarises the order of key events:

|  |  |
| --- | --- |
| **Date** | **Details** |
| 30/07/2023 | Scottish Canoe Association (SCA) informs police about structures in the Tay at Grandtully (Storm ref 1788). He also informed Pitcastle Estate. |
| 31/07/2023 | Nature Scot is contacted by Pitcastle Estate about same incident. The state own the banks of the river there. They have a lease with Scottish Canoe Association for kayak slalom there which was ceased due to this incident. This decision has been reviewed and will likely be reinstated. Nature Scot forwarded message to SEPA and to Police Scotland (Wildlife Liaison Officer) |
| 31/07/2023 | Police Scotland WLO contacted SEPA to find out who was dealing |
| 31/07/2023 | Police Scotland WLO spoke to SCA on the phone. They explained that a (named individual) was responsible but provided no further details about him at this point. This individual is a member of SCA but had no agreements or discussion about his intentions with anyone in SCA and had just gone ahead with his own plans regardless. He is involved in slalom. |
| 31/07/2023 | Pitcastle Estates contacted Police Scotland WLO to voice their (and SCA) concerns |
| 31/07/2023 | Second report received (Storm incident 1248 refers) |
| 31/07/2023 | SEPA advised Police Scotland WLO they had been alerted to the incident over the weekend and could not send people out today but intended to go out on the 1st Aug 2023. |
| 31/07/2023 | Police Scotland WLO contact Nature Scot to consider who else needs to be informed. |
| 01/08/2023 | Nature Scot and SEPA attended on site and viewed the disturbance of the structure to the river flow etc. |
| 01/08/2023 | Police Scotland WLO speak to Pitcastle Estates on the phone who make no further complaint about the works but want SEPA to be happy with outcome. |
| 02/08/2023 | SEPA provide an update to Police Scotland WLO explaining their findings. Nature Scot had not managed to enter the river because of high water so FWPM side of things not concluded. |
| 02/08/2023 | SEPA received an apology from the individual who created the structure and it was intended everyone worked together to ensure the structures were dismantled appropriately. Police Scotland WLO understands SEPA dealt with it by a warning letter with clear instruction how the situation should be rectified. |
| 02/08/2023 | Nature Scot contact Police Scotland WLO to discuss whether SCA should be spoken to about responsible access. Police Scotland WLO question this approach given the works were undertaken without SCA knowledge or agreement. |
| 02/08/2023 | The named individual who undertook the works contacts Pitcastle Estates to apologise. Police Scotland WLO spoke with Pitcastle Estates. |
| 04/08/2023 | SEPA sends Police Scotland WLO an email with photos re structure decommissioning. |
| 07/08/2023 | Pitcastle Estates contact SEPA. |
| 31/08/2023 | Police Scotland WLO contacts Nature Scot to check that there were no further FWPM enquiries. Nature Scot stated the place where the structures were not the right habitat as it was too rocky - in any case it would be too dangerous to check with the water levels being what they were. |

**5. A copy of STORM Incident report along with any associated or otherwise linked incident;**

An extract (all relevant details) from STORM Incident Report: PS-20230731-1248 is provided below:

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| **Detail** | **Date** | **Time** |
| Police to attend at Strathtay PH9 0PJ | 31/07/2023 | 11:39:56 |
| Caller works at locus and has been told from Nature Scotland to report to police that someone has put concrete in the river bed. | 31/07/2023 | 11:42:29 |
| Caller requested to speak to Police Scotland WLO as they believed this would be in their remit. | 31/07/2023 | 11:43:18 |
| Caller states that in the River Tay, someone has built around 16 different concrete constructions in the low water. | 31/07/2023 | 11:43:53 |
| Caller is not sure who did it but believes it may be something to do with the Scottish Canoe Association. The constructions are in at the rapids where the slalom gates are. However they have no evidence of this. | 31/07/2023 | 11:44:37 |
| Caller unsure of any CCTV that may have covered the area. | 31/07/2023 | 11:44:57 |
| Summary: Caller reports unknown persons have put concrete in the riverbed, has been advised by Nature Scotland to report to police. | 31/07/2023 | 11:45:52 |
| Note: Further engagement required to establish any crime | 31/07/2023 | 11:45:52 |

Please note that details of a second STORM incident report PS-20230730-1788 are contained within a separate attachment email (within email trail 7).

**6. A copy of any procedure of policy which prohibits Police Scotland personnel discussing environmental issues with National Sporting Bodies, their employees or** agents;

I can advise you that Police Service of Scotland does not hold any of the information requested by you.

In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

By way of explanation, a check of our systems has revealed no trace of any specific policy or guidance relevant to your request.

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.