



LETTER SENT BY E-MAIL ONLY

17 October 2024

2024/25-064R

Freedom of Information (Scotland) Act 2002

Background

On 5 August 2024 you made a Freedom of Information (FOI) request to the Scottish Police Authority.

In response to your request the Authority advised *"Forensic Services does not hold images of the knife at the skip."*¹

Response

On 1 October 2024 you requested that the Authority review this response.

The response has been reviewed by a member of the Information Management team who was not involved in the original decision-making process.

The original decision is upheld for the following reasons.

On 22 May 2024 you made a request for *"all the photographs that would have been taken at the search of the skip, in the yard of Newbattle House Farm in 2003, including the pictures taken of the knife and tip that were recovered by the police."*

The Authority responded that information was held, but that this was exempt from disclosure under Section 34 'Investigations by Scottish public authorities' of the Freedom of Information (Scotland) Act 2002 (FOISA).²

You subsequently requested a review of this decision. The response stated that your review request had been partially upheld for the following reasons.³

¹ [FOI 2024/25-052 - Images related to Luke Mitchell/Jody Jones case](#)

² [FOI 2024/25-028 - Images related to Luke Mitchell/Jody Jones case](#)

³ [FOI 2024/25-040R - Images related to Luke Mitchell/Jody Jones case](#)

"The initial request should have applied S17 exemption "Information not held". By means of explanation, Forensic Services does not hold images of the knife at the skip.

The application of Section 34(1) is upheld by the Authority as the information was collected for investigation purposes. An investigation which the authority has a duty to conduct to ascertain whether a person should be prosecuted for an offence; or to ascertain whether a person prosecuted for an offence is guilty; and 34(1)(b) - an investigation conducted by the authority, which in the circumstances may lead to a decision by the authority to make a report to the PF to enable it to determine whether criminal proceedings should be instituted".

The combination of the information provided clarifies that the Authority does not hold any images of the knife in the skip. The Authority does hold images in respect of your wider request that are exempt under Section 34(1) 'Offences and criminal proceedings' of FOISA.

Please also note that the Scottish Police Authority, which includes Forensic Services, was established in 2013. As such this case pre-dates the establishment of the Scottish Police Authority and Forensic Services. At the time of the offence the case would have been managed by the legacy police force.

Public Interest Test

The initial response is upheld in relation to the public interest test.

Right to Review

If you remain dissatisfied, you can appeal to the Scottish Information Commissioner within six months. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by letter to Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Commissioner's decision, you can appeal to the Court of Session, only if you think the law has not been applied correctly.

This response will be posted to our [Disclosure Log](#) after seven days.

Yours faithfully

SPA Corporate Management