

Our Ref: IM-FOI-2022-2669
Date: 09 January 2023



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

A young satellite-tagged red kite was found poisoned on a Scottish grouse moor, lying next to a poisoned bait, whose corpse had been cut open to entice any passing predator and to allow for easy access to the poison. The discovery was made by a member of the public on 20th May 2021 on Dava Moor, just beyond the boundary of the Cairngorms National Park. Police Scotland attended the scene of the poisoning and collected the kite and the bait for toxicology analysis. They also conducted a search of the grouse moor the following week. Toxicology tests confirmed the presence of poison in both birds. Sixteen months later in September 2022, Police Scotland notified the member of the public that 'enquiries are complete, nobody has been charged and the case is now closed'.

Please detail what the enquiries uncovered:

I can confirm that toxicology tests revealed that 'Bendiocarb' poisoning was the cause of death for the red Kite.

One individual was arrested, interviewed and released without charge due to insufficient evidence.

Why no charges were ever brought:

One of the main responsibilities of Police in Scotland is to investigate crimes and criminal offences and where there is a sufficiency of evidence, report the circumstances to the Crown Office & Procurator Fiscal Service (COPFS). Investigation of this particular incident did not provide sufficient evidence to charge any individual.

To clarify, corroborative evidence is required to liable any charge in relation to the poisoning of birds of prey.

Why no press release was issued:

The decision not to issue a press release was an operational decision, balancing risk vs reward.

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To explain, the locus was remote, the bait and bird had been removed and no longer posed a risk. Given there was no nearby path it was deemed highly unlikely that any members of the public would have been able to provide useful or relevant witness evidence. From the main road nearest the locus any persons on the land would not have been able to identify any suspect given the distance involved.

Further consideration was given in regards to the requirement not to alert the accused to the investigation at this time to aid further investigative strategies. Any intelligence identifying the methodology or focus of this activity could have been used to the advantage of the perpetrator to frustrate such investigations and/or seek support other individuals to do so. As such, any press release would have been detrimental to planned further enquiry and Police activity.

If you require further assistance or are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.