| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2539  Responded to: xx October 2023 |
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Your recent request for information is replicated below, together with our response.

## At the Scottish Police Authority meeting in Glasgow on September 28, SPA chairman Martyn Evans said he had received a briefing by Deputy Chief Constable Malcolm Graham in relation to Recorded Police Warnings.

## Please send me a copy of this briefing.

The briefing document is attached but some information has been withheld in accordance with the Act.

I am refusing to provide you with some of the information sought and, as such, section 16 of the Act requires Police Scotland 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.

I can confirm that the information requested is held by Police Scotland and the exemption(s) that I consider to be applicable are set out below:

Section 30 (c) - Prejudice to the Effective Conduct of Public Affairs.

One internal telephone number has been removed.

This is a non-absolute exemption and requires the application of the public interest test.

To release these details publicly could negatively impact on the operational effectiveness of the service and there are already established routes for the public to make contact with the police.

Section 35(1)(a)&(b) - Law enforcement

Information is exempt information if its disclosure under the Act would, or would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

Disclosure of the requested information would impact on the ability of the Police Service to prevent and detect crime and to release this information would be contrary to that purpose.

This is a non-absolute exemption and requires the application of the public interest test.

39(1) – Health, safety and the environment

The disclosure of the information requested may have the potential to increase the risk to the personal safety of individuals and of police officers.

This is a non-absolute exemption and requires the application of the public interest test.

Public Interest Test

To clarify, the information provides specific guidance from the Lord Advocate which allows a Recorded Police Warning (RPW) to be issued as an alternative to prosecution.

Whilst I acknowledge that public accountability may favour disclosure, it is never in the public interest to disclose information that could influence the criminal justice process or alter offending behaviour.

It is important that the public are aware that the Police have this level of discretion to be able to deal with offences proportionately and without the need to 'criminalise' every offender.

However, the release of this level of detail would provide an indication of the crimes and incidents which may be subject to this type of warning and lead individuals to perceive that it is ‘safer’ or ‘permissible’ to undertake a particular course of action without fear of prosecution.

This could lead to an increase in perceived low level crime, which is clearly not in the interests of crime prevention or the administration of justice.

Furthermore, this guidance has not been released into the public domain by the Crown Office (or by the Scottish Government) and as such, it would be inappropriate to disregard this approach.

The need to ensure the effective conduct of the service in relation to prevention and detection of crime and the public safety considerations involved in the delivery of operational policing clearly favour non-disclosure of the information requested.

I cannot identify any corresponding viewpoint in disclosing the requested information and therefore the exemptions are upheld.

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.