

Our Ref: IM-FOI-2022-22
Date: 31 January 2022



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.

As of 01.01.22 please provide the following information:

1. How many of your force's officers (not specials) were suspended on full pay?

As at 1st January 2022, there were 31 police officers suspended on full pay.

2. Please provide me with a breakdown showing the number of officers suspended in each rank?

Of the total above, 29 officers held the rank of Constable and the remaining two officers held the rank of Police Sergeant or above.

In terms of section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with specific rank relating to these two cases.

Section 16 requires Police Scotland when refusing to provide such information because it 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.

I can confirm that Police Scotland holds the information that you have requested. The exemption that I consider to be applicable to the information requested by you is section 38(1)(b) - Personal Data.

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(s).

In this instance, due to the low number of officers in this group, it is likely that individuals could be identified by providing any further details and it is my view that disclosure of the information sought would be unlawful.

3. Please also provide me with a list showing the date (month/year) that each officer suspended (as at 01/01/22) was first suspended from duty on full pay?

For your information, regulation 8(5) of the Police Service of Scotland (Conduct) Regulations 2014 provides that the DCC (or the ACC Professionalism and Assurance as Delegated Authority) must review the circumstances and reason for the suspension of any officer no more than 4 weeks from the initial suspension and not more than every 4 weeks from each subsequent review thereafter. This regulation and the review procedures ensure that all suspensions continue to be proportionate and necessary for each officer concerned:

[The Police Service of Scotland \(Conduct\) Regulations 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Table 1: Months suspension began – 2018-2021

Year	Month (Suspension began)
2018	August
2019	May, August
2020	February, July, August, September, October and November
2021	February, March, May, June, July, August, September, October, November and December

1. Please note, where more than one officer has been suspended in a particular month/year, this month and year has only been identified once.

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I would caution that the provision of any further correlation of this information would also be subject to consideration under Section 38(1)(b) of the Act if it could potentially identify individual cases.

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.pnn.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.