| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 25-0901Responded to: 22 May 2025 |
| --- | --- |

Your recent request for information is replicated below, together with our response.

**Under the Freedom of Information (Scotland) Act 2002, I request the following information in relation to the handling of police data breaches, specifically regarding former police officers’ access to and misuse of police-obtained information.**

**Requested Information:**

1. **Copies of Police Scotland’s policies and internal guidance regarding the investigation of former police officers for the unauthorised retention and misuse of police-obtained data.**
2. **The criteria and procedures used to determine whether a data breach involving a former police officer is escalated to a criminal investigation or referred to the Information Commissioner's Office (ICO).**

The information sought is not held by Police Scotland and section 17 of the Act therefore applies.

By way of explanation, each Data Protection allegation is reviewed on a case-by-case basis by the Professional Standards Department (PSD) and assessed in terms of whether it reaches the threshold for criminality. If it does, PSD thereafter provide a factual summary of the circumstances to the Crown Office and Procurator Fiscal Service (COPFS), accompanied by a Statement of Opinion from the force Information Security Officer, to allow COPFS to make an informed decision.

This process would be no different in the case of a former (resigned/retired) officer, as long as the allegation occurred during their period of employment. However, in the case of a resigned/retired officer, the matter would not be referred to PSD Conduct Unit at the conclusion of the criminal enquiry, as the Conduct regulations currently only apply to serving officers.

1. **The total number of cases in the last five years where a former police officer has been investigated by Police Scotland for the misuse of police-obtained data.**

Over the last 5 years, we can advise that there has been 1 former police officer investigated by Police Scotland for the misuse of police-obtained data.

1. **The total number of cases in the last five years where Police Scotland referred a data breach involving a serving or former police officer to the ICO rather than conducting an independent criminal investigation.**

The information sought is not held by Police Scotland and section 17 of the Act therefore applies.

By way of explanation, there has been zero cases in the last 5 years.

1. **Copies of any internal correspondence, reports, or policy documents outlining how Police Scotland determines whether a data breach involving an ex-police officer should be handled as a criminal matter or referred externally.**

The information sought is not held by Police Scotland and section 17 of the Act therefore applies.

As detailed in our answer to questions 1 and 2, each Data Protection allegation is reviewed on a case-by-case basis by the Professional Standards Department (PSD) and assessed in terms of whether it reaches the threshold for criminality.

1. **Case-Specific Information:**

**For transparency, I also request any internal discussions, policies, or correspondence (with personal details redacted where necessary) regarding the handling of XXXXX case:**

In terms of section 18 of the Act, I am refusing to confirm or deny whether Police Scotland holds the information sought.

Bearing in mind that FOI disclosures are essentially public disclosures, the public interest overwhelmingly lies in protecting individual’s rights to privacy and the integrity of any police investigations.

If the information was held, it would be exempt from disclosure in terms of at least one exemption set out in the Act. In this instance, the following exemptions apply:

Section 34(1)(b) - Investigations

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

Section 38(1)(a) & (b) - Personal Data.

I understand that this response may seem confusing and/ or unhelpful in the circumstances, but I would stress that FOI is not the appropriate means by which information about personal matters can be accessed.

If you believe that Police Scotland holds information relevant to yourself, you can submit a [Subject Access Request](http://www.scotland.police.uk/access-to-information/data-protection/subject-access-requests) (SAR)to be considered in terms of the Data Protection Act 2018/ GDPR.

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 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](https://www.foi.scot/appeal), by email 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.