

Our Ref: IM-FOI-2021-2313
Date: 11 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.

Please can you tell me how many 'subject officers' (police officers) were referred by Police Scotland to the Crown Office's Criminal Allegations Against Police Division where the officers were facing an allegation with a sexual circumstance attached to it. I would like this data for each of the last four financial years.

Police Scotland aims to provide the best possible service to the people of Scotland however recognises that on occasion the service received falls short of the standards expected by the public and the police themselves.

To provide some context to our response, it may be helpful to first outline how the complaints and conduct process operates in Scotland and to provide some additional information sources.

Firstly, I would advise that complaints and conduct *are distinct and separate matters* with both having different assessment and recording processes on the Professional Standards Department (PSD) database. Consequently, complaints and conduct matters cannot simply be added together.

All complaints received by Police Scotland are managed in line with our Complaints about the Police Standard Operating Procedures (SOP) which can be accessed via the following link:

<https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf>

Further details in relation to our complaints process can be found on the Police Scotland website via the following link:

<https://www.scotland.police.uk/about-us/police-scotland/complaints/>

Once complaint matters are concluded, the circumstances may be referred for a separate conduct assessment. PSD manage conduct matters for police officers, whilst People & Development (P&D) manage conduct matters relative to members of police staff.

Police officer conduct is assessed against our Standards of Professional Behaviour which can be accessed via the following link:

<https://www.scotland.police.uk/spa-media/2r3p0bsx/standards-of-professional-behaviour.pdf>

Should an officer's behaviour be assessed to breach the Standards of Professional Behaviour, a preliminary assessment will be carried out under Regulation 10 of the Police Scotland (Conduct) Regulations 2014.

Police Scotland's Conduct Regulations can be found via the following link:

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

Should the assessment provide that an investigation is required, the officer concerned will be served with a Notice of Misconduct Investigation. The purpose of the investigation is to gather evidence to establish the facts and circumstances of the alleged misconduct and ascertain if there is a case to answer.

Our misconduct procedures aim to provide a fair, open and proportionate method of dealing with alleged misconduct and intend to encourage a culture of learning and development for individuals and the organisation. Notwithstanding, disciplinary action undoubtedly has a part to play, should circumstances dictate that this is required.

Once complaint matters are concluded, the circumstances *may* be referred for a Conduct Assessment to be undertaken. This might not necessarily include every aspect of the complaint or every officer involved, however the same officer and circumstances could appear on both a complaint case and a conduct case.

Furthermore, there can be one or more allegations contained within one complaint case and equally, there can be one or more subject officers relative to each allegation. Conduct cases may contain multiple allegations, but are limited to one subject officer per case.

Your request specifically seeks information relating to Police Officers referred to the Crown Office's Criminal Allegations against the Police Division (CAAPD) where the allegation has a sexual circumstance attached to it. For clarity a sexual circumstance is considered to relate to all allegations where there is a sexual element and could include criminal and non-criminal allegations.

The Lord Advocate is the head of the systems for the prosecution of crime and investigation of deaths in Scotland and exercises those functions independently of any other person. The Crown Office and Procurator Fiscal Service (COPFS) is the sole prosecuting authority in Scotland; it receives reports about crimes from the police and other reporting agencies and then decides what action to take, including whether to prosecute.

Where matters involving a serving police officer occur *off duty*, a criminal investigation will be undertaken by the relevant investigatory authority who will report the circumstances to COPFS should a sufficiency of evidence exist.

Where there is an indication that *on duty* criminality may have occurred, PSD will contact the Criminal Allegations against the Police Division (CAAPD) of COPFS to advise them.

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CAAPD may request further investigation or enquiry to be undertaken or may refer the matter to the Police Investigations & Review Commissioner (PIRC) to investigate. If the complaint is about an on duty criminal offence by a police officer or member of staff, Police Scotland will record the complaint and refer it to PIRC for assessment and investigation in consultation with CAAPD.

Once the investigation into the criminal complaint has been completed, the circumstances will be reported to CAAPD who will decide if any action should be taken against the Police Scotland officer or staff member. For this reason I must respond in terms of Section 17(1) of the Act: Information not held.

You may wish to contact COPFS at foi@copfs.gsi.gov.uk who may be able to provide you with further guidance in relation to such statistics.

It is important to note that any officer who is reported to COPFS for a criminal matter, regardless of whether criminal proceedings are commenced and regardless of the outcome, will be referred to the PSD National Conduct Unit for assessment and final disposal.

In response to your request, all Complaints and Conduct cases between 01/04/2017 - 31/03/2021 which included an allegation with a sexual circumstance and resulted in a report being submitted to the Crown Office and Procurator Fiscal Service (COPFS) have been manually reviewed. The resulting data has been provided by financial year within the table below.

Table: Police Officers reported to the Procurator Fiscal in relation to allegations involving a sexual circumstance, by Financial Year ^{1 2 3}

Case Type	2017/18	2018/19	2019/20	2020/21
Complaint - Police Officers	12	12	10	4
Conduct - Police Officers	16	7	9	7

1. Data is based on the date which the report was submitted to COPFS.
2. Each officer may be linked to multiple allegations. For complaints only, multiple officers may be linked to the same allegation (Conduct allegations are however only linked to a single officer).
3. Data in the table above excludes Police Staff.
4. The above data consists of both on duty and off duty matters.
5. The above data refers to reports submitted to COPFS between 01/04/2017 - 31/03/2021 which included an allegation with a sexual circumstance.

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.

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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.