

Our Ref: IM-FOI-2022-2553
Date: 20th December 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.

I am looking to find out the number of police officers (of any rank) who were caught either under the influence of drugs or in possession of drugs.

Please also specify their ranks, where they were based and what drug(s).

I would like to see figures from the full calendar years of 2020, 2021 and as much of 2022 as possible.

Your request has been answered in two parts as follows:

Substance Misuse Testing

Please note that the Police Scotland [Substance Misuse Standard Operating Procedure \(SOP\)](#) provides a framework for the prevention and management of substance misuse problems within Police Scotland.

The data provided is results from 'with cause' testing of Police Officers and **does not** include pre-employment testing.

Between 1 January 2020 and December 2022, I can confirm that four police officers, all of constable rank, have failed 'with cause' tests - three in 2020 and one in 2021

The drug type was cocaine in all four cases and all four officers resigned prior to formal misconduct or disciplinary proceedings being concluded.

Relevant Officer Complaint and Conduct Allegations

Between 1 January 2020 and December 2022, I can confirm that one police officer, of constable rank, was linked to allegations involving the possession of drugs - in 2020.

The drug types were Cannabis and Etizolam and again, the officer resigned.

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I have provided as much detail as possible above but overall I have decided that inclusion of details as to where each of the officers was based would render the data *personal data*.

Were that included, the pool of individuals to whom the data requested could relate - ie police constables who resigned from a particular area during the time period - is considered sufficiently low that there exists the potential for individuals to be easily identified.

In terms of section 16 of the Act, I am therefore refusing to provide you with this information and I am therefore required 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 sought is held by Police Scotland and the exemption I consider to be applicable is section 38(1)(b) of the Act - personal information.

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 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 I do not agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

On that basis, it is my view that disclosure of the information sought would be unlawful.

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Should you require any further assistance please contact Information Management quoting the reference number given.

If you 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.