

Our Ref: IM-FOI-2021-2562
Date: 21 January 2021



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.

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

Police Scotland aims to provide a high quality service to the people of Scotland; however, it is recognised that the service can sometimes fall short of the expectations of 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 processes operate in Scotland and provide some additional information sources.

I would first ask you to note that the complaint process and the conduct process are distinct from each other and both have separate assessment and recording processes within the Professional Standards Department (PSD) database. Due to these processes, the complaints and conduct matters cannot simply be added together.

All complaints received by Police Scotland are managed in line with our Complaints against the Police Standard Operating Procedures (SOP), details of which can be found at the following link:

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

Further detail in relation to Police Scotland and our complaints process can be found on our public facing website at 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.

In respect of police officers, their conduct is assessed against our Standards of Professional Behaviour, details of which can be found at the following link:

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

Police Scotland's Conduct Regulations can be found at this link:

[The Police Service of Scotland \(Conduct\) Regulations 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2014/1000/contents/matter)

A preliminary assessment is carried out under Regulation 10 of the Police Scotland (Conduct) Regulations 2014. Should an officer's behaviour be assessed to have breached the Standards of Professional Behaviour and an investigation is required, the officer is served with of a Notice of Misconduct Investigation form. The purpose of any investigation is to gather evidence to establish the facts and circumstances of the alleged misconduct and establish if there is a case to answer.

Our misconduct procedures aim to provide a fair, open and proportionate method of dealing with alleged misconduct. The procedures are intended to encourage a culture of learning and development for individuals and/or the organisation; however, disciplinary action can be undertaken when circumstances require.

As previously stated, once complaint matters are concluded, the circumstances *may* be referred for a Conduct Assessment (not necessarily every aspect of the complaint, or every officer involved). There is therefore potential for the same officer/circumstances to appear on 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. Subject officers are counted once per case; however, the same officer may be subject to multiple cases and therefore may appear more than once.

There is the potential for the same officer/circumstances to appear on a complaint case and a conduct case. This is because once a complaint has been concluded, the circumstances may be considered for a conduct assessment (not necessarily every aspect of the complaint, or every officer involved).

Again, I must underline that the complaint process and the conduct process are distinct from each other and both have separate assessment and recording processes within the Professional Standards Department (PSD) database and accordingly the complaints and conduct matters cannot simply be added together.

1. How many police officers and staff in your force have been reported for sexual assault from January 2018 to September 2021?

For the avoidance of doubt, information has been provided on sexual assaults as defined by the Sexual Offences (Scotland) Act 2009, Section 3(1), Section 20 and Section 30.

Further and for your convenience I have included a hyperlink below to our Complaints about the Police Standard Operating Procedure (SOP). Please see section 5 in the link below that differentiates between what is considered to be an on duty or off duty matter:

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

A total of 44 Police Officers and Staff were subject to allegations of sexual assault attached to **complaints** received between 01/01/2018 and 30/09/2021. Data has been provided by calendar year within table 1 below.

Please note that this figure refers only to allegations. Each allegation received is assessed and investigated; however, not all allegations are substantiated and/or proven.

Table 1: Subject Officers linked to allegations of sexual assault (Complaints), by Calendar Year ^{1 2 3 4}

Category	2018	2019	2020	2021
Number of Subject Officers	15	13	11	5

1. Data is based on the case received date.
2. Each allegation may be linked to multiple subject officers. Each subject officer may be linked to multiple allegations.
3. Data in the table above includes Police Officers and Police Staff.
4. Data for 2021 covers the period of 01/01/2021 - 30/09/2021 inclusive.

A total of 41 Police Officers were subject to allegations of sexual assault attached to **Conduct/Misconduct cases** received between 01/01/2018 and 30/09/2021.

Allegations involving a sexual circumstance were manually reviewed to confirm these. Data has been provided by calendar year within table 2 below.

Table 2: Subject Officers linked to allegations of sexual assault (Conduct/Misconduct), by Calendar Year ^{1 2 3 4}

Category	2018	2019	2020	2021
Number of Subject Officers	9	14	13	5

1. Data is based on the case received date.
2. Each subject officer may be linked to multiple allegations.
3. Data above refers to Police Officers, as the Conduct regulations apply only to serving Police Officers. Police Staff are therefore excluded from the table above.
4. Data for 2021 covers the period of 01/01/2021 - 30/09/2021 inclusive.

Again, I must underline that the complaint process and the conduct process are distinct from each other and both have separate assessment and recording processes within the Professional Standards Department (PSD) database. Accordingly, the complaints and conduct matters cannot simply be added together.

2. How many of these reports resulted in any sort of professional disciplinary action of an officer or staff member?

To allow direct comparisons with the response above, disposals have been provided in relation to the officers linked to relevant complaint cases above. Please note that formal or management action is only applied to conduct cases; however, once complaint matters are concluded, the circumstances may be referred for a Conduct Assessment (not necessarily every aspect of the complaint, or every officer involved).

Table 2: Disposals for Subject Officers linked to allegations of sexual assault (Complaints), by Calendar Year ^{1 2 3 4}

Disposal	2018	2019	2020	2021
Referred to Conduct Unit	1	2	1	0
No Action	13	9	6	3
Ongoing - not yet concluded	1	2	4	2
Grand Total	15	13	11	5

1. Data is based on the case received date.
2. Each allegation may be linked to multiple subject officers. Each subject officer may be linked to multiple allegations.
3. Data in the table above includes Police Officers and Police Staff.
4. Data for 2021 covers the period of 01/01/2021 - 30/09/2021 inclusive.
5. The term 'No Action' can mean that misconduct has not been established or that local management have introduced an improvement/action plan.

Table 3: Disposals for Subject Officers linked to allegations of sexual assault (Conduct/Misconduct), by Calendar Year ^{1 2 3 4}

Disposal	2018	2019	2020	2021
Meeting - Not Proven, No Further Action	0	0	1	0
Meeting - Verbal Warning	0	1	0	0
Meeting - Written Warning	2	0	0	0
Management Action	1	1	3	1
No Action	2	3	4	0
Ongoing - not yet concluded	4	5	5	4
Retire/Resign	0	4	0	0
Grand Total	9	14	13	5

1. Data is based on the case received date.
2. Each subject officer may be linked to multiple allegations.
3. Data above refers to Police Officers, as the Conduct regulations apply only to serving Police Officers. Police Staff are therefore excluded from the table above.
4. Data for 2021 covers the period of 01/01/2021 - 30/09/2021 inclusive.
5. The term 'No Action' can mean that misconduct has not been established or that local management have introduced an improvement/action plan.

3. How many of these reports resulted in a conviction of an officer or staff member?

This is interpreted as a continuation of the previous questions and the following context may be helpful.

- Crown Officer Procurator Fiscal Service (COPFS):

The Lord Advocate is the head of the systems of prosecution and investigation of deaths in Scotland, functions which she exercises 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 determines what action to take, including whether to prosecute.

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Where matters involving a serving police officer occur off duty as with any other member of the public an investigation will be undertaken by the relevant investigatory authority and where relevant matters reported to Crown Office and Procurator Fiscal Service (COPFS).

Where there is an indication that an on duty crime may have been committed, Professional Standards Department will contact the Criminal Allegations Against [the] Police Division (CAAPD) of the Crown Office and Procurator Fiscal Service (COPFS) to advise them. CAAPD may advise further investigation action or enquiry to be undertaken or may refer the matter to PIRC to investigate.

If the complaint is about an “on duty” criminal assault 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 the CAAPD.

CAAPD staff will investigate the criminal allegations reported by Professional Standards or PIRC and decide if any action will be taken against the Police Scotland officer or staff member.

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 conviction statistics.

It is important to note that any officer who is reported to COPFS (Crown Office Procurator Fiscal Service) for a criminal matter, regardless of whether criminal proceedings are commenced and regardless of the outcome, all of the allegations are thereafter assessed by the National Conduct Unit for a final disposal.

As the question above relates to officers convicted of a criminal offence, these matters will be captured on Conduct or Misconduct cases as any criminal charges issued will automatically result in a preliminary assessment under the relevant Conduct Regulations.

Data provided in response to this question will therefore rely on Conduct and Misconduct cases only.

Table 4: Subject Officers convicted in relation to allegations of sexual assault, by Calendar Year ^{1 2 3 4}

Court Outcome	2018	2019	2020	2021
Convicted	3	2	0	0

1. Data is based on the case received date. Please note that this date will vary from the date of conviction, which may occur out with the period in which the Conduct/Misconduct case was received.
2. Each subject officer may be linked to multiple allegations and convicted of multiple charges.
3. Data above refers to Police Officers, as the Conduct regulations apply only to serving Police Officers. Police Staff are therefore excluded from the table above.
4. Data for 2021 covers the period of 01/01/2021 - 30/09/2021 inclusive.

Please also note that cases received may remain subject to live enquiry and legal proceedings may be pending. Therefore, the data provided above remains subject to change.

4. How many of these reported officers/staff members were removed from their job?

This is interpreted as a continuation of the previous questions.

Disposals linked to the subject officers have been provided in the response to question 2 above.

I can confirm that at the time of response, no Police Officer has been dismissed in relation to these allegations of sexual assault. For this reason I must respond in terms of Section 17(1) of the Act: Information not held.

Please note that cases received may remain subject to live enquiry and therefore may not yet be concluded at this time.

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.