| Police Scotland logo | Freedom of Information Response Our reference: FOI 25-0699  Responded to: 24 March 2025 |
| --- | --- |

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

## In 2018, HMICS published Assurance Review of Police Scotland's Counter Corruption Unit (2026) Progress Review

## <https://www.hmics.scot/media/rhmdqezi/hmics20180913pub.pdf>

## In relation to Recommendation 23 below (page 19/20),

## Recommendation 23 Police Scotland should engage with Crown Office and Procurator Fiscal Service to examine alternative and more expeditious approaches to the reporting of minor offences against the data protection act in cases where the individual police officer or member of police staff has admitted the offence and there is no evidence of corruption. 82. Police Scotland and COPFS developed a new criteria for the early assessment of data protection offences whereby PSD submit an abbreviated report to COPFS for consideration. The abbreviated report is based on three key elements; ■ sufficiency of evidence for criminal proceedings ■ intent / motivation and ■ public interest. 83. This approach was discussed at both the Steering Group and Independent Reference Group and subsequently approved by COPFS. For those cases where the evidential test is met, there is an assessment of the level of seriousness of the access, and the level of organisational and operational risk that occurred as a consequence. 20 SPA, Audit Committee, Police Scotland Whistleblowing Progress Report, 18 April 2018. 21 Police and Fire Reform (Scotland) Act 2012. 20 84. We found that the introduction of the abbreviated report has been a positive development supporting an improved approach to reporting of minor offences against data protection legislation where the police officer or member of police staff has admitted the offence and there is no evidence of corruption. 85. HMICS is satisfied that this recommendation has been fully met.

## Q1. Is this process still in place by Police Scotland in relation to suspected data protection offences by officers and staff?  If not, what is the current practice.

Yes, this process remains in place.

## Q2. What mechanisms do Police Scotland PSD have in place to assess the 3 key elements of sufficiency of evidence for criminal proceedings, intent / motivation and public interest.

Police Scotland’s Professional Standards Department (PSD) provide a factual summary of the circumstances to the Crown Office and Procurator Fiscal Service (COPFS), accompanied by a Statement of Opinion from a Police Scotland Information Assurance Officer.

## Q3. What opportunities are given to officers and staff suspected of criminal data breaches to admit/deny or explain the offence in light of the fact that they cannot be legally arrested and interviewed for a suspected breach of s170 Data Protection Act 2018 owing to it not being a crime punishable by imprisonment?  What is the policy in place to ensure that this Recommendation is met on this specific point?

When reference is made within the recommendation stated above “police officer or member of police staff has admitted the offence and there is no evidence of corruption” this typically refers to Data Protection breaches being reported by the subject - typically personally to management, which is determined as not having a policing purpose though does not amount to corruption.

As with all reports submitted to COPFS by PSD, an account from a subject officer is not sought out of fairness to them.  However, the subject officer can submit a voluntary statement at this stage which is applicable to any allegations.

If the matter is returned to the PSD National Conduct Unit for assessment, and proceeds to an investigation, the subject officer will be given the opportunity to address the allegation(s) and provide a response (under Regulation 11 of the Police Scotland (Conduct) Regulations, 2014) - although this is optional.

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](mailto:foi@scotland.police.uk) 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](mailto:enquiries@foi.scot) 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.