

Our Ref: IM-FOI-2021-2245
Date: 16 March 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.

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 About 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:

[What is a complaint? - Police Scotland](#)

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 the following link:

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

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 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.

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); therefore, there is 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.

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. Due to these processes, the complaints and conduct matters cannot simply be added together.

1. Can you tell me how many Police Scotland officers have been charged or convicted of a sex offence in the past five years?

Your question is interpreted as requesting the number of reports whereby the subject matter involved a sexual circumstance. By way of further explanation, the PSD database has the facility to add a sexual circumstance marker to any allegation that appears or is perceived to contain a sexual element, whether physical or non-physical, criminal or non-criminal. For the purpose of your request, allegations containing this marker were extracted.

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 reported to Crown Office and Procurator Fiscal Service (COPFS).

If the complaint is about an on duty matter and where there is an indication that a 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 to advise them.

CAAPD may advise further investigation action or enquiry to be undertaken or may refer the matter to the Police Investigations & Review Commissioner (PIRC) to investigate.

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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 a 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. They will thereafter advise the complainer in writing of their decision.

Further information can be obtained from via the links below:

[Police Independent Review Commissioner website](#) or [Crown Office and Procurator Fiscal Service website](#).

It is important to note that any officer who is reported to COPFS or CAAPD 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 PSD National Conduct Unit for a final disposal.

As the question above relates to officers charged or 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.

A total of 51 Police Officers were subject to conduct or misconduct cases received 01/04/2016 - 31/03/2021 inclusive and which resulted in the officer being reported to the Procurator Fiscal or convicted in relation to a criminal allegation involving a sexual circumstance.

Data has been provided by financial year within the table below.

Table 1: Police Officers subject to criminal allegations involving a sexual circumstance which resulted in reports submitted or conviction (Conduct or Misconduct), by Financial Year ^{1 2}

Category	2016/17	2017/18	2018/19	2019/20	2020/21
Reported or Convicted	6	13	10	13	9

1. Data is based on the case received date. This date may vary from the date on which the officer was reported or convicted.

2. Each subject officer may be linked to multiple allegations per case. Subject officers are counted once per case.

2. Can you supply details / categories of any such offences?

This question is interpreted as a continuation of the previous question. Please note that each subject officer may be subject to multiple allegations. Therefore, the number of allegations may vary from the number of subject officers.

A total of 113 criminal allegations involving a sexual circumstance which resulted in an officer being reported or convicted were attached to conduct or misconduct cases received

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01/04/2016 - 31/03/2021 inclusive. Data has been provided by financial year within the table below.

Table 2: Criminal allegations involving a sexual circumstance linked to Police Officers which resulted in reports submitted or conviction (conduct or misconduct), by Allegation Type and Financial Year ^{1 2}

Charge Classification	2016/17	2017/18	2018/19	2019/20	2020/21
Breach Of The Peace	2	2	1	0	2
Children & Young Persons Offences	0	0	0	1	0
Civic Government (Scotland) Act 1982 (not elsewhere classified)	0	2	0	0	0
Coerce To Look At Sexual Image	0	0	0	0	4
Communicating Indecently	0	1	0	0	1
Communications Act 2003 (Sexual)	0	1	0	0	0
General Attempts To Defeat/Pervert The Course/Ends Of Justice	0	0	0	0	1
General Post Office/Telecommunications Offences	0	0	0	1	4
Indecent Assault	4	14	10	15	4
Lewd And Libidinous Practices	1	1	0	0	0
Petty Assault	1	0	1	2	0
Post Office, Telecommunications & Data Protection	0	0	2	3	2
Procuration & Other Sexual Offences	0	2	2	1	0
Public Indecency	0	0	0	1	0
Rape	2	1	2	2	0
Sexual Coercion	0	0	0	0	1
Stalking	0	0	0	6	1
Taking, distribution, possession, publish etc. indecent images of children	2	1	0	1	2
Threatening To Disclose An Intimate Image	0	0	2	0	0
Voyeurism	0	1	0	0	0
Grand Total	12	26	20	33	22

1. Data is based on the case received date. This date may vary from the date on which the officer was charged or convicted.

2. Each subject officer may be linked to multiple allegations.

3. The above matters relate to both on and off duty.

4. Please note that the data in the above table has been abstracted from the Police Scotland Centurion system, based on the crime classification categories utilised within the system.

3. Can you tell me how many allegations of sex offences were made against Police Scotland officers that did not result in charges or convictions, over the past five years?

4. Can you supply details / categories of any such allegations?

For ease of response Questions 3 & 4 have been answered together:

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, all of the allegations are thereafter assessed by the National Conduct Unit for a final disposal.

There are multiple reasons as to why a charge would not result in a conviction. These include: no complainer, the complaint did not amount to criminality, the report was made anonymously, insufficient information or evidence, the complainer failed to engage and that it was considered by COPFS and assessed that no proceedings should be taken.

For consistency with the above response, data will be provided for subject officers and also the number of relevant allegations.

A total of 112 police officers were subject to complaints, conduct or misconduct cases received 01/04/2016 - 31/03/2021 inclusive and which did not result in the officer being reported or convicted in relation to a criminal allegation involving a sexual circumstance.

Data has been provided by financial year within Table 3 below.

The Police, Public Order and Criminal Justice (Scotland) Act 2006 34(2) defines a complaint about the police as:

“A statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Authority, by the Police Service or by a person who at the time who at the time of the act or omission was a person serving with the Police”.

Please note that a complaint may result in referral to the National Conduct Unit for assessment. As such, conduct or misconduct cases may involve the same circumstances (not necessarily every aspect or every subject officer) as a complaint. To ensure accuracy, records were reviewed to confirm subject officers are only counted once in relation to the same circumstances should these appear on both a complaint and a conduct or misconduct file.

Table 3: Police Officers subject to criminal allegations involving a sexual circumstance which did not result in reports submitted or conviction (complaints, conduct or misconduct), by Financial Year ^{1 2 3 4}

Category	2016/17	2017/18	2018/19	2019/20	2020/21
Not Reported or Convicted	21	24	22	29	16

1. Data is based on the case received date.
2. Each subject officer may be linked to multiple allegations per case. Subject officers are counted once per case.
3. Subject officers are counted once in relation to the same circumstances where these emerge from a complaint and result in a referral to the National Conduct Unit. Primacy is given to the complaint case in those instances.
4. The above matters relate to both on and off duty.

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A total of 69 criminal allegations involving a sexual circumstance which did not result in an officer being reported or convicted were attached to complaint cases received 01/04/2016 - 31/03/2021 inclusive.

Data has been provided by financial year within the Table 4 below.

Table 4: Criminal allegations involving a sexual circumstance linked to Police Officers which did not result in reports submitted or conviction (Complaints only), by Allegation Type and Financial Year ^{1 2 3}

Allegation Type	2016/17	2017/18	2018/19	2019/20	2020/21
Assault	2	3	3	1	0
Breach of Data Protection Act	0	0	1	0	0
Breach of the Peace	1	0	0	0	0
Indecent Assault	6	11	13	13	3
Petty Assault	0	1	0	0	0
Post Office, Telecommunications & Data Protection	0	1	0	0	0
Procurator & Other Sexual Offences	0	1	1	4	0
Public Indecency	0	1	0	0	0
Rape	1	1	0	0	0
Taking, distribution, possession, publish etc. indecent images of children	0	0	0	0	1
Grand Total	10	19	18	18	4

1. Data is based on the case received date.

2. Each case may involve multiple allegations and each allegation may be linked to multiple subject officers.

3. The above matters relate to both on and off duty.

Please note that no further breakdown is available as regards criminal allegations attached to conduct or misconduct cases within the specified period. As a result, the number of allegations may not directly relate to the number of subject officers linked to a criminal allegation involving a sexual circumstance which did not result in charges.

Due to recording practices, where a conduct or misconduct file is raised, criminal categories are only added where criminality has been established following enquiries.

Therefore, as this question relates to officers being reported to the Procurator Fiscal in respect of a criminal allegation (in this instance involving a sexual circumstance), allegation categories are not routinely recorded where criminal reports are not submitted in relation to these. Please note that this process applies to conduct and misconduct cases only, as this category breakdown is available for complaint cases whether or not the subject officer is ultimately charged in relation to a criminal allegation.

5. Can you tell me if there are any current serving Police Scotland officers who have convictions for any type of sex offence?

In response to this question, I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

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As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, Police Scotland's Professional Standards Department do not have a specific means of retrieving this information from the Centurion database.

To provide a response, all records for the current number of officers would require to be cross-checked with information held on the Criminal History System.

This would involve searches, on two databases, of 17,289 records - an exercise which would far exceed the cost limit set out in the Fees Regulations.

By way of further explanation, applicants to the police service may have previous convictions; however, please be reassured that all applicants are subject to a stringent vetting procedure. Criminal convictions in respect of police applicants are exempt from rehabilitation in that they cannot be considered as 'spent convictions' and all will be fully considered in the recruitment process. Each candidate undergoes a full criminal history and intelligence check with all rationale recorded in respect of passing or failing the vetting process.

In respect of serving officers, after the conclusion of any court proceedings or consideration of criminal proceedings by COPFS, the matter is referred for a conduct assessment, whether they are convicted or not. Each matter is fully investigated internally by PSD and, based on the balance of probabilities, appropriate action will be taken.

This can range from no action to dismissal for gross misconduct. You should note that up until any conduct hearing takes place, serving officers have the option to resign and, if they do so, will not be subject to misconduct procedures as there is no scope within the Police Scotland (Conduct) Regulations 2014 to allow such proceedings.

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.

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.

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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.