| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1567  Responded to: 5th July 2023 |
| --- | --- |

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

Please accept our apologies for the delay in responding.

**Please send a copy of your policy for drug testing of police officers and staff, or a link to it.**

In terms of section 16 of the Act, I am refusing to provide you with the information sought on the basis that it is publicly available in our [Substance Misuse SOP](https://www.scotland.police.uk/spa-media/ecuj3zq5/substance-misuse-sop.pdf).

Section 16 requires Police Scotland to:

(a) state that it holds the information,   
(b) state that it is claiming an exemption,   
(c) specify the exemption in question and   
(d) state, if that would not be otherwise apparent, why the exemption applies.

I can confirm that the information requested is held by Police Scotland and the exemption that I consider to be applicable is set out at section 25(1) of the Act:

“Information which the applicant can reasonably obtain other than by requesting it under Section 1(1) is exempt information”.

You will note from reviewing the attached that this policy does not apply to police staff however a request may be made for a staff member to provide a sample on a ‘with cause’ basis.

Please also note that the data provided in this response does not include any pre-employment testing carried out by our recruitment team.

**How many police officers and staff (including PCSOs and Specials) have been subjected to random drug testing in each of the last five calendar years, plus the year to date (the last five and a half years)?**

**Please give their role or the type of unit they worked in (eg response officer, firearms, patrol, call handler, police staff, PCSO etc).  
Does the test include screening for anabolic steroids?  
For those who gave a sample (again in each of the last five and a half years) please confirm what type of drug/drugs were found and what happened as a result (eg warning, retraining dismissal, tribunal hearing, resignation, name on barred list, criminal charge or conviction etc).  
In each of the last five and a half calendar years how many refused to give a sample and what happened as a result of the refusal (eg warning, retraining, dismissal, tribunal hearing, resignation, name on barred list etc)?**

Police Scotland does not conduct random substance misuse testing for serving officers and section 17 of the Act therefore applies as the information sought is not held.

**How many police officers and staff (including PCSOs and Specials) have been subjected to drug testing “with cause” in each of the last five years, plus the year to date?**

Information in relation to closed cases is detailed below. This does not include any cases which may be subject of live investigation, appeal or review.

| **Police Officers** | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Requested** | **Refused** | **+ve** | **-ve** | **Drugs detected** |
| 2018 | 3 | 0 | 1 | 2 | Cocaine |
| 2019 | 3 | 0 | 1 | 2 | Cocaine |
| 2020 | 2 | 0 | 1 | 1 | Cocaine |
| 2021 | 5 | 1 | 3 | 1 | Cocaine |
| 2022 | 6 | 0 | 2 | 4 | Cocaine |
| 2023 | 5 | 0 | 1 | 4 | Cocaine |

| **Police Staff** | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Requested** | **Refused** | **+ve** | **-ve** | **Drugs detected** |
| 2018 | 6 | 4 | 0 | 2 | n/a |
| 2019 | 0 | n/a | n/a | n/a | n/a |
| 2020 | 0 | n/a | n/a | n/a | n/a |
| 2021 | 0 | n/a | n/a | n/a | n/a |
| 2022 | 0 | n/a | n/a | n/a | n/a |
| 2023 | 0 | n/a | n/a | n/a | n/a |

No tests have been conducted in relation to Special Constables and Police Scotland do not have Police Community Support Officers. Section 17 of the Act therefore applies as the information sought is not held.

**Please give their role or the type of unit they worked in (eg response officer, firearms, patrol, community, PCSO etc).**

In terms of section 16 of the Act, I am refusing to provide you with the information sought. Section 16 requires Police Scotland to:

(a) state that it holds the information,   
(b) state that it is claiming an exemption,   
(c) specify the exemption in question and   
(d) state, if that would not be otherwise apparent, why the exemption applies.

I can confirm that the information requested is held by Police Scotland and the exemption that I consider to be applicable is set out at section 38(1)(b) of the Act - Personal Data.

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.

**Does this test include screening for anabolic steroids?**

The standard screening protocol does not include anabolic steroids. If there is specific intelligence about steroids then this can be requested as an additional test.

**If the tests are individually tailored as a result of the intelligence/information which gave the force cause to request a test, please specify in each case what was tested for.**

The tests are part of a standard palette of drugs screened for (Amphetamines, Benzodiazepines, Cannabis, Cocaine, Opiates and Ketamine).

**Please give the reason why the test was requested, (eg violent incident, complaint, intelligence etc)**

In accordance with the [Substance Misuse SOP](https://www.scotland.police.uk/spa-media/ecuj3zq5/substance-misuse-sop.pdf) tests are conducted on a ‘with cause’ basis.

**Of those who gave a sample please tell me what type of drug/drugs was found and what happened as a result (warning, retraining dismissal, tribunal, resignation, name on barred list etc).**

All drugs detected are listed in the tables above.

For police officers, all cases where drugs are detected will result in a gross misconduct investigation. The Police Service of Scotland (Conduct) Regulations 2014 only apply to serving officers therefore an individual can retire or resign prior to the conclusion of a misconduct hearing.

From the data covering 2018-2023 all Police Officers who tested positive resigned from Police Scotland prior to the conclusion of misconduct proceedings.

As outlined above, no staff members tested positive.

**In each of the last five calendar years, plus this year to date, how many refused to give a sample and what happened as a result of the refusal (eg dismissal, tribunal hearing, resignation, name on barred list etc)?**

All refusals are listed in the tables above.

Police staff are not bound by the same regulations as police officers and therefore cannot be compelled to submit to a with cause test.

For police officers, all refusals lead to a gross misconduct investigation for breaching the Standard of Professional Behaviour entitled ‘Orders and Instructions’.

The Police Officer who refused to provide a sample resigned.

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](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) 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.