| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-0503Responded to: 17th August 2023 |
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Your request for information is replicated below, together with our response.

Please accept our apologies for the delay in responding.

We have received an unprecedented volume of requests on the subject of police officer conduct and criminality and that has, unfortunately, impacted on our ability to meet the statutory timescales in some cases.

## I would like details of official complaints in the following categories, made against serving police officers in the force under your remit in 2018/19, 2019/20, 2020/21, 2021/22 and 2022/23 so far - Sexual harassment, Rape, Sexual assault, Child sex offences, Other sexual misconduct

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

The complaint process and conduct process are distinct from each other and both have separate assessment and recording processes within the Professional Standards Department (PSD) database.

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 and complaints and conduct matters cannot therefore simply be added together.

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.

Allegations attached to Conduct cases are categorised in relation to the Standards of Professional Behaviour detailed in the [Police Service of Scotland (Conduct) Regulations 2014](https://www.legislation.gov.uk/ssi/2014/68/contents/made). Conduct cases may contain multiple allegations but are limited to one subject officer per case. Please also note that the Police Service of Scotland (Conduct) Regulations 2014 cease to have effect when an officer retires or resigns as they only apply to serving officers.

If the allegation involves established criminality, charges are linked to those allegations and categorised accordingly. It is possible for multiple charges to be linked to a single allegation, therefore the number of charges may vary from the number of allegations.

Subject officers are counted once per case, however the same officer may be subject to multiple cases and therefore may appear more than once.

Furthermore, unidentified officers are excluded from the count of subject officers provided below (although the allegations are counted) as they have not been positively identified and therefore cannot be attributed to a particular subject officer.

Data has been provided in relation to Police Officers linked to allegations involving a sexual circumstance recorded on the PSD database, received between 01/04/2018 and 31/03/2023 inclusive.

Data provided is based on the case received date and is correct as at 19/06/2023 however could be subject to change/reclassification.

Please note that allegations involving a sexual circumstance may be criminal or non-criminal in nature.

The response to each question is further broken down by the allegation types requested, where available. Further detail on the categorisation of allegations on the PSD database is as follows:

* Due to recording practices on the PSD database, no specific categories exist in relation to ‘sexual harassment’ and therefore no data can be provided in this regard.
* Allegations categorised as Rape and Indecent Assault have been provided, as per your request.
* Although there is no specific category which refers to ‘child sex offences’, there are a number of allegation categories which relate to sexual offences involving a child. These categories will be specified within our response to question 1 and referred to thereafter as ‘sexual offences involving a child’.

Due to limitations of the PSD database, a number of crime classifications are not currently listed on the database and hence do not fully align with the Scottish Crime Recording Standards (SCRS).

Our response to this aspect of your request will therefore be based on the categories which currently exist on the database.
Based on the allegations identified within the specified period, the following categories have been provided in relation to ‘sexual offences involving a child’:

* + ‘Children & young persons’ offences
	+ Grooming of children for the purposes of sexual offences
	+ Taking, distributing, possession etc of indecent photos of children
* All other allegations involving a sexual circumstance, which may be criminal or non-criminal in nature, have been grouped together under the title of ‘other sexual allegation’.

## Specifically, for each category, I would like you to disclose:

## How many accusations were made against serving police officers

Data is provided as follows - separated into *Complaint* and *Conduct* data:

*Allegations involving a sexual circumstance linked to Police officers (Complaints), by type and financial year*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Allegation Type** | **2018/19** | **2019/20** | **2020/21** | **2021/22** | **2022/23** |
| Indecent assault | 13 | 15 | 9 | 8 | 18 |
| Other sexual allegation | 11 | 12 | 1 | 12 | 11 |
| Rape | 1 | 0 | 1 | 1 | 1 |
| Sexual offences involving a child | 0 | 0 | 1 | 0 | 0 |
| **Grand Total** | **25** | **27** | **12** | **21** | **30** |

*Allegations involving a sexual circumstance linked to Police officers (Conduct), by type and financial year*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Allegation Type** | **2018/19** | **2019/20** | **2020/21** | **2021/22** | **2022/23** |
| Indecent assault | 10 | 19 | 7 | 10 | 14 |
| Other sexual allegation | 33 | 63 | 54 | 50 | 31 |
| Rape | 2 | 1 | 2 | 1 | 2 |
| Sexual offences involving a child | 0 | 2 | 0 | 0 | 1 |
| **Grand Total** | **45** | **85** | **63** | **61** | **48** |

## How many allegations were upheld

## How many of these upheld charges resulted in formal disciplinary action, and what actions they were

These questions are considered to be a continuation of question one, and as both questions relate to allegation outcomes, both questions will be taken together.

Allegations attached to *Complaints* are upheld or not upheld following a completed investigation. However, allegations received may also be abandoned or withdrawn by the complainer. Furthermore, allegations received may remain subject to live enquiry and/or legal proceedings, therefore may not yet be concluded.

***Allegations involving a sexual circumstance linked to Police officers (Complaints)***

In relation to the recorded allegations of Rape, Indecent Assault and ‘Sexual offences involving a child’, no allegations were upheld.

11 allegations of Indecent Assault remain ongoing and are not yet concluded.

In relation to the recorded allegations (Complaints) noted as ‘Other sexual allegation’, 2 allegations were upheld, one of which resulted in a Written Warning. The other was ‘Concluded by Explanation’. 9 allegations remain ongoing and are not yet concluded.

***Allegations involving a sexual circumstance linked to Police officers (Conduct)***

Allegations attached to Conduct cases are subject to an individual disposal and not classed as Upheld or Not Upheld.

Disciplinary outcomes are limited to Conduct cases concluded under the [Police Service of Scotland (Conduct) Regulations 2014](https://www.legislation.gov.uk/ssi/2014/68/contents/made) or, where the alleged misconduct predates their enactment, the Police Service of Scotland (Conduct) Regulations 2013.

As previously noted, the Police Service of Scotland (Conduct) Regulations 2014 cease to have effect when an officer retires or resigns as they only apply to serving officers.

Please note that allegations received may remain subject to live enquiry and/or legal proceedings, therefore may not yet be concluded as noted within the table below. The Conduct outcomes are as follows:

| **Allegation Type and Result** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| **Indecent assault - TOTAL** | **10** | **19** | **7** | **10** | **14** |
| Dismissal Without Notice | 0 | 0 | 0 | 0 | 1 |
| No Action | 2 | 2 | 4 | 0 | 2 |
| Retired/Resigned | 2 | 7 | 1 | 3 | 0 |
| Ongoing - not yet concluded | 6 | 10 | 2 | 7 | 11 |
| **Other sexual allegation - TOTAL** | **33** | **63** | **54** | **50** | **31** |
| Dismissal With Notice | 0 | 6 | 0 | 0 | 0 |
| Demotion in Rank | 0 | 2 | 0 | 0 | 0 |
| Final Written Warning | 0 | 0 | 5 | 1 | 1 |
| Written Warning | 1 | 2 | 3 | 0 | 0 |
| No Action | 13 | 16 | 4 | 11 | 1 |
| Verbal Warning | 1 | 3 | 0 | 1 | 0 |
| Management Action | 12 | 4 | 11 | 22 | 9 |
| Counselled | 0 | 4 | 0 | 0 | 0 |
| Retired/Resigned | 4 | 21 | 17 | 7 | 0 |
| Ongoing - not yet concluded | 2 | 5 | 14 | 8 | 20 |
| **Rape - TOTAL** | **2** | **1** | **2** | **1** | **2** |
| No Action | 2 | 0 | 0 | 0 | 0 |
| Retired/Resigned | 0 | 1 | 0 | 0 | 0 |
| Ongoing - not yet concluded | 0 | 0 | 2 | 1 | 2 |
| **Sexual offences involving a child - TOTAL** | **0** | **2** | **0** | **0** | **1** |
| Retired/Resigned | 0 | 2 | 0 | 0 | 0 |
| Ongoing - not yet concluded | 0 | 0 | 0 | 0 | 1 |
| **Grand Total** | **45** | **85** | **63** | **61** | **48** |

## I'm also requesting that you break this down by a) the sex of the accused, b) the seniority of the accused

Please note, as previously mentioned, that each allegation attached to Complaints may be linked to multiple officers (Conduct allegations by contrast are limited to one officer), therefore the number of subject officers may vary from the number of allegations.
Subject officers may be linked to multiple allegations and the same individual officer may be linked to multiple (i.e. separate) cases.

Please also note that unidentified subject officers linked to allegations attached to Complaints are excluded from the figures detailed below. In these instances, it is not possible to ascertain the officer’s rank or sex.

**4(a)**

*Subject officers linked to allegations involving a sexual circumstance (Complaints), by sex and financial year*

| **Sex** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| Female | 4 | 7 | 3 | 1 | 3 |
| Male | 19 | 22 | 13 | 19 | 22 |
| **Grand Total** | **23** | **29** | **16** | **20** | **25** |

*Subject officers linked to allegations involving a sexual circumstance (Conduct), by sex and financial year*

| **Sex** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| Female | 2 | 2 | 3 | 2 | 6 |
| Male | 28 | 43 | 33 | 45 | 34 |
| **Grand Total** | **30** | **45** | **36** | **47** | **40** |

**4(b)**

In relation to officer rank, you will note that officers of the rank of Sergeant or above have been grouped together into one category as noted below.

It has been assessed that inclusion of details as to the exact rank of officers, senior to Sergeant, would be considered personal data.

If those details were included, the pool of individuals to whom the data requested could relate is considered sufficiently low that there exists the potential for individuals to be easily identified.

The information sought is therefore held by Police Scotland but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the section 38(1)(b) exemption applies - 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.

*Subject officers linked to allegations involving a sexual circumstance (Complaints), by rank and financial year*

| **Rank** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| Constable | 17 | 26 | 16 | 20 | 25 |
| Sergeant or above | 6 | 3 | 0 | 0 | 0 |
| **Grand Total** | **23** | **29** | **16** | **20** | **25** |

*Subject officers linked to allegations involving a sexual circumstance (Conduct), by rank and financial year*

| **Rank** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| Constable | 23 | 32 | 30 | 36 | 34 |
| Sergeant or above | 7 | 13 | 6 | 11 | 6 |
| **Grand Total** | **30** | **45** | **36** | **47** | **40** |

## Confirm whether the complaint was made by a) a member of the public or b) a police officer / member of police staff

Please note that each allegation attached to complaints may be linked to multiple complainers and each complainer may be linked to multiple allegations, therefore the number of complainers may vary from the number of allegations.
Complainers are counted once per case. The same individual complainer may be linked to multiple (i.e. separate) complaint cases.

*Complainers linked to allegations involving a sexual circumstance (Complaints), by complainer type and financial year*

| **Complainer Type** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** |
| --- | --- | --- | --- | --- | --- |
| Police Officer | 4 | 3 | 0 | 0 | 0 |
| Member of Police Staff | 0 | 0 | 0 | 0 | 0 |
| Public | 17 | 21 | 11 | 21 | 28 |
| **Grand Total** | **21** | **24** | **11** | **21** | **28** |

Complainers are not systematically recorded against Conduct cases on the PSD database. Therefore, no data can be provided in this regard in relation to Conduct cases and section 17 of the Act therefore applies, the information sought is *not held* by Police Scotland.

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 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 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.