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Our Ref: IM-FOI-2022-1950
Date: 09 November 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.

Following clarification with you, you advised:

I can confirm that it is the case that I consider cases in which compensation has been paid to be cases in which a court action was raised and in which the court action either settled prior to a Proof diet, or went to proof i.e civil trial.

Please could you provide the following information broken down by calendar years 2019, 2020, 2021 and 2022 (or the latest available data):

- 1. a) the number of cases where your police force has paid an out of court settlement or paid compensation to individuals**

In response to your request, 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.

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 holds compensation/settlement data by financial year. In order to extrapolate the data and arrange the information into calendar years this would require a manual review of all cases submitted within the time frame requested. For the financial year 2019/2020 there are 354 individual cases that would require review. A highly conservative estimate is that it would take approximately 10 minutes to review a single case. For this one year alone it would take 59 hours of work, exceeding the cost threshold set out within the Act.

Police Scotland have assessed that the £600 cost limit within the Act equates to 40 hours of work and so this part of your request would breach the cost threshold.

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However, to be of assistance, please see the table below for the information requested provided by financial year.

| Year | Number of Employer Liability Claims | Number of Public Liability Claims | Number of Motor Liability Claims | Other Claims |
|-----------|-------------------------------------|-----------------------------------|----------------------------------|--------------|
| 2019/2020 | 33 | 76 | 245 | Not Noted |
| 2020/2021 | 22 | 57 | 216 | Not Noted |
| 2021/2022 | 34 | 61 | 214 | Not Noted |
| 2022/2023 | 10 | 42 | 131 | Not Noted |

1. b) the nature of the cases where compensation or settlement has been paid. For example, this could mean 'wrongful arrest', 'loss of property', 'excessive force or assault' etc.

In relation to your request for 'the nature of the cases', I have interpreted this to mean the categories of claim and the following information provides a general description:

- Employers' liability – Claims intimated against the Scottish Police Authority by employees, or claims intimated against the Chief Constable of the Police Service of Scotland by police officers, for work related accidents, illness or injury, for example. Employment tribunal claims concern employment disputes (for example, discrimination, pay, unfair dismissal etc.).
- Public liability – Claims intimated by members of the public arising from circumstances in a public place or in an area where the public have access (including for example, slips, trips and falls, wrongful arrest, damage to property etc.).
- Motor liability – Claims arising from road traffic accidents involving police vehicles.

1. c) the sum the force has paid in damages or to settle these complaints

In response to this question please see the response as per question 1.a).

By way of assistance, please see the table below for the information requested provided by financial year.

| | 2019/2020 | 2020/2021 | 2021/2022 | 2022/2023 |
|------------------|-------------|-------------|---------------|---------------|
| Public Liability | £540,236.08 | £492,171.42 | £1,683,240.13 | £2,886,271.86 |
| Motor Liability | £857,287.76 | £833,525.03 | £801,539.84 | £3,289,599.69 |
| Other Payments | £18,765.41 | £17,660.23 | £13,811.42 | £66,628.05 |

In relation to the above information I would ask that you note the following caveats:

1. *The figures for employers' liability include any payments made in relation to employment tribunal claims;*

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2. *Payments can be made over a number of years therefore totals are subject to change;*
3. *The figures do not include any payments made in respect of third party legal fees or our own legal expenses; and*
4. *In relation to Other Compensation Payments, these are recorded by Finance as having been made however no further breakdown is known.*

If possible, please could you provide a breakdown for each year by the age of the complainant.

2. a) the total number of allegations of misconduct or gross misconduct made against officers in your force

Police Scotland aims to provide the best possible service to the people of Scotland, however, recognises that, on occasion, the service received falls short of the standard expected by the public and the police themselves.

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

Police Scotland's Professional Standards Department (PSD) manages conduct matters for police officers, whilst its People & Development (P&D) department manages conduct matters relative to members of police staff. Police officer conduct is assessed against our Standards of Professional Behaviour which can be accessed via the following link:

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

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

Should an officer's behaviour be assessed to breach the Standards of Professional Behaviour, a preliminary assessment will be carried out under Regulation 10 of the Police Scotland (Conduct) Regulations 2014, which can be accessed via the following link.

<https://www.scotland.police.uk/spa-media/q1jjirdw/police-service-of-scotland-conduct-regulations-sop.pdf>

Where the assessment provides that an investigation is required, the officer concerned will be served with a Notice of Misconduct Investigation. The purpose of investigation is to gather evidence to establish the facts and circumstances of the alleged misconduct and ascertain if there is a case to answer. It should be noted, if a police officer retires or resigns during this process, proceedings will automatically cease.

Data has been provided below for allegations which have been assessed at the preliminary assessment stage as Misconduct or Gross Misconduct. Please note that this data is based on the date of the preliminary assessment.

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Each assessment may involve multiple allegations; therefore, to provide suitable context to your request, data has been provided which details both the number of assessments and the number of allegations attached to each assessment category.

The preliminary assessment may vary from the determination which is reached following a formal misconduct investigation. At this stage, the Assistant Chief Constable Professionalism & Assurance (or Divisional Superintendent, as the case may be) determines whether or not the constable has a case to answer in respect of misconduct or gross misconduct.

Table: Gross Misconduct or Misconduct at the Preliminary Assessment stage, by year of assessment^{1 2 3}

| Category | 2019 | 2020 | 2021 | 2022 |
|--|------|------|------|------|
| Gross Misconduct - Preliminary Assessments | 45 | 38 | 33 | 8 |
| Gross Misconduct - Number of allegations attached to Preliminary Assessments | 120 | 107 | 89 | 16 |
| Misconduct - Preliminary Assessments | 237 | 255 | 280 | 161 |
| Misconduct - Number of allegations attached to Preliminary Assessments | 329 | 320 | 345 | 188 |

1. Data is based on the preliminary assessment date.

2. Each assessment may involve multiple allegations. Therefore, the number of allegations may vary from the number of assessments. Each assessment is limited to one subject officer.

3. Data for 2022 covers the period of 01/01/2022 – 21/09/2022 inclusive.

4. Data has been obtained from Police Scotland's Professional Standards database which contains live data and is subject to change. Data provided was accurate at the time of collation (27/09/22).

2. b) the number of officers who have retired from your force while there is an active allegation of misconduct or gross misconduct against them

2. c) the number of officers in your force who have resigned before misconduct, gross misconduct or other disciplinary proceedings have completed

These questions have been interpreted to be a continuation of **question 2. a)**.

As case disposals recorded on the Professional Standards Department's database do not differentiate between retirement or resignation, the response to both questions is provided as a total in the table shown below.

As outlined above, where a serving police officer retires or resigns during the conduct process, this process immediately ceases, as the Police Scotland (Conduct) Regulations 2014 apply only to serving police officers.

Data has been provided on the number of subject officers who have retired or resigned, prior to the conclusion of conduct cases which have been assessed as Misconduct or Gross Misconduct at the preliminary stage.

Table: Police Officers subject to a Gross Misconduct or Misconduct Preliminary Assessment and retired/resigned prior to the conclusion of conduct proceedings, by year of assessment^{1 2 3}

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| Case Disposal | 2019 | 2020 | 2021 | 2022 |
|------------------|------|------|------|------|
| Retired/Resigned | 12 | 15 | 16 | 4 |

1. Data is based on the preliminary assessment date.
2. Each assessment may involve multiple allegations. Therefore, the number of allegations may vary from the number of assessments. Each assessment is limited to one subject officer.
3. Data for 2022 covers the period of 01/01/2022 – 21/09/2022 inclusive.

Should you require any further assistance please contact Information Management quoting the reference number given.

If you 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.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.