| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-0283  Responded to: 13th July 2023 |
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Your recent 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.

* **How many officers in the force have faced sexual misconduct allegations since 1 January 2019?**

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 the 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.

Due to these processes, the complaints and conduct matters cannot 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.

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.

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.

Whilst Police Scotland do not use the recording category ‘sexual misconduct’, the Professional Standards Department database holds a ‘sexual circumstance’ marker that can be appended to any conduct or complaint case containing allegations which are perceived to contain a sexual element, whether physical or non-physical, criminal or non-criminal.

For the purpose of your request, data to which this specific marker applies have been extracted in relation to subject officers linked to allegations involving a sexual circumstance, received between 01/01/2019 – 27/01/2023 inclusive.

*Police officers linked to allegations involving a sexual circumstance (Complaints), between 01/01/2019 – 27/01/2023 1 2 3*

|  |  |
| --- | --- |
| **Category** | **Number** |
| Subject Officers | 92 |

*1 Data is based on the case received date.   
2 Multiple officers may be linked to a single allegation and each case may involve multiple allegations. Therefore, the number of officers may vary from the number of allegations. Subject officers are counted once per case.  
3 Unidentified officers are excluded from the table above.*

*Police officers linked to allegations involving a sexual circumstance (Conduct), between 01/01/2019 – 27/01/2023 1 2*

|  |  |
| --- | --- |
| **Category** | **Number** |
| Subject Officers | 165 |

*1 Data is based on the case received date.   
2 Each subject officer may be linked to multiple allegations. Therefore, the number of officers may vary from the number of allegations. Subject officers are counted once per case.*

* **Could this total be broken down by nature of allegation i.e. sexual harassment, sexual assault, rape?**

As referred to within the explanation above, each officer may be linked to multiple allegations and therefore the number of allegations may vary from the number of subject officers. Also referred to within the explanation above, allegations involving a sexual circumstance may be criminal or non-criminal in nature.

Complaint allegations are recorded in accordance with the [Complaints About the Police Standard Operating Procedure (SOP)](https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf), which includes specific criminal and non-criminal categories (including sub types where applicable).

Conduct allegations are recorded in accordance with the ten [Standards of Professional Behaviour](https://www.scotland.police.uk/about-us/who-we-are/our-standards-of-professional-behaviour/) detailed in [The Police Service of Scotland (Conduct) Regulations 2014](https://www.legislation.gov.uk/ssi/2014/68/contents/made).

To provide a full breakdown of these Conduct allegations, this categorisation has been provided in the relevant table below.

*Allegations involving a sexual circumstance linked to Police officers (Complaints), by allegation type (01/01/2019 – 27/01/2023) 1 2*

| **Allegation Type (or sub type, where applicable)** | **Number** |
| --- | --- |
| Assault | 21 |
| Breach of Data Protection Act | 1 |
| Breach of peace | 1 |
| Excessive Force | 1 |
| Incivility | 2 |
| Indecent assault | 52 |
| Irregularity in Procedure | 4 |
| Oppressive Conduct/Harassment | 1 |
| Other - Non Criminal | 2 |
| Procuration & other sexual offences | 4 |
| Rape | 3 |
| Taking, dist, possession etc of indecent photos of children | 1 |
| Total | 93 |

*1 Data is based on the case received date.   
2 Multiple officers may be linked to a single allegation and each case may involve multiple allegations. Therefore, the number of allegations may vary from the number of officers.*

*Allegations involving a sexual circumstance linked to Police officers (Conduct), by allegation type (01/01/2019 – 27/01/2023) 1 2*

|  |  |
| --- | --- |
| **Allegation Type** | **Number** |
| Authority, Respect and Courtesy | 83 |
| Challenging and Reporting Improper Conduct | 1 |
| Conduct likely to bring discredit | 12 |
| Confidentiality | 2 |
| Discreditable Conduct | 160 |
| Duties and Responsibilities | 2 |
| Equality and Diversity | 1 |
| Honesty and Integrity | 8 |
| Total | 269 |

*1 Data is based on the case received date.   
2 Subject officers may be linked to multiple allegations. Therefore, the number of allegations may vary from the number of officers. Subject officers are counted once per case.*

* **Could the total figure be broken down by year and by current status i.e. ongoing investigation by professional standards, ongoing investigation by IOPC, awaiting misconduct hearing, officer received written warning, officer dismissed?**

As each allegation is subject to individual disposal, data has been provided below in relation to allegation results. Please note that allegations received may remain subject to live enquiry and/or pending legal proceedings, therefore may not yet be concluded.

Please also note that outcomes such as misconduct hearings, written warnings and dismissal are not applicable to complaint allegations. These matters are designated to Conduct cases only and progressed in accordance with The Police Service of Scotland (Conduct) Regulations 2014.

Moreover, the Independent Office for Police Conduct (IOPC) does not have jurisdiction in Scotland and therefore no such data is held in that regard - section 17 of the Act (information not held) applies.

*Allegations involving a sexual circumstance linked to Police officers (Complaints), by allegation result and calendar year (01/01/2019 – 27/01/2023) 1 2 3 4*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Allegation Result** | **2019** | **2020** | **2021** | **2022** | **2023** |
| Abandoned | 1 | 1 | 5 | 3 | 0 |
| Not Upheld - Concluded by explanation | 1 | 1 | 1 | 8 | 0 |
| Not upheld - Leading to No Proceedings by APF | 14 | 10 | 10 | 6 | 0 |
| Not Upheld - Malicious complaint | 0 | 2 | 0 | 1 | 0 |
| Upheld - Concluded by explanation | 0 | 0 | 0 | 1 | 0 |
| Upheld - Leading to misconduct disposal | 1 | 0 | 0 | 0 | 0 |
| Withdrawn | 2 | 2 | 2 | 2 | 0 |
| Ongoing - not yet concluded | 2 | 3 | 1 | 10 | 3 |
| Total | 21 | 19 | 19 | 31 | 3 |

*1 Data is based on the case received date.   
2 Multiple officers may be linked to a single allegation and each case may involve multiple allegations. Therefore, the number of allegations may vary from the number of officers.  
3 Data for the 2023 calendar year covers the period of 01/01/2023 – 27/01/2023 inclusive.   
4 Allegations received may remain subject to live enquiry and/or pending legal proceedings, therefore may not yet be concluded.*

*Allegations involving a sexual circumstance linked to Police officers (Conduct), by allegation disposal and calendar year (01/01/2019 – 27/01/2023) 1 2 3 4*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Allegation Disposal** | **2019** | **2020** | **2021** | **2022** | **2023** |
| Hearing - Dismissal With Notice | 0 | 6 | 0 | 0 | 0 |
| Hearing - Dismissal Without Notice | 0 | 0 | 0 | 1 | 0 |
| Hearing - Demotion in Rank | 2 | 0 | 0 | 0 | 0 |
| Hearing - Final Written Warning | 0 | 4 | 0 | 1 | 0 |
| Hearing - Written Warning | 0 | 3 | 0 | 0 | 0 |
| Hearing - No Action | 5 | 0 | 0 | 1 | 0 |
| Meeting - Final Written Warning | 0 | 1 | 1 | 0 | 0 |
| Meeting - Written Warning | 2 | 0 | 0 | 0 | 0 |
| Meeting - Verbal Warning | 3 | 0 | 1 | 0 | 0 |
| Meeting - No Action | 1 | 2 | 0 | 0 | 0 |
| Management Action | 12 | 9 | 19 | 14 | 2 |
| Counselled | 4 | 0 | 0 | 0 | 0 |
| No Action | 11 | 13 | 13 | 3 | 0 |
| Retired/Resigned | 29 | 18 | 10 | 2 | 0 |
| Ongoing - not yet concluded | 5 | 22 | 13 | 33 | 3 |
| Total | 74 | 78 | 57 | 55 | 5 |

*1 Data is based on the case received date.   
2 Subject officers may be linked to multiple allegations. Therefore, the number of allegations may vary from the number of officers. Subject officers are counted once per case.  
3 Data for the 2023 calendar year covers the period of 01/01/2023 – 27/01/2023 inclusive.   
4 Allegations received may remain subject to live enquiry and/or pending legal proceedings, therefore may not yet be concluded.*

* **How many of the allegations have resulted in criminal charges?**

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 Act where section 12(1) (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, this information is not automatically searchable from the PSD database and it would therefore be necessary to research each case individually.

This would involve assessment of the records held by PSD but also the Scottish Criminal History System (CHS) and various local case reporting systems depending on where in Scotland the offence was alleged to have occurred.

Given the numbers involved and at a conservative estimate of 30 minutes research per case, this is an exercise we assess would exceed the cost limitations.

You will note from the [Complaints About the Police SOP](https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf) that *‘where there is a* ***reasonable inference*** *that a crime* ***may*** *have been committed’* the circumstances **must** be reported to the Crown Office and Procurator Fiscal Service (COPFS) for independent assessment and consideration of criminal proceedings.

It should be noted that this includes all ‘allegations’ whether there is a sufficiency of evidence or not - therefore a ‘report’ to COPFS does not necessarily mean that any charges were libelled.

We would be able to provide you with data regarding reports to COPFS if that was of interest.

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.