| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-2065Responded to: 28 December 2023 |
| --- | --- |

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

Please accept our apologies for the delay in responding.

**For each year 2014/15 to 2022/23 and 2023/24 to date:**

* **The number of allegations of criminality against police officers detailed in Complaint and/ or Conduct files.**

The Professional Standards Department (PSD) manage conduct matters for Police Officers whilst People & Development (P&D) manage conduct matters relative to Members of Police Staff.

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

The complaints 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.

The formal disciplinary process for Police Officers is governed by [the Police Service of Scotland (Conduct) Regulations 2014](https://www.legislation.gov.uk/ssi/2014/68/contents/made). The associated [Scottish Government Guidance Document](https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2018/04/conduct-and-performance-procedures-police-guidance/documents/police-guidance-conduct-procedures/police-guidance-conduct-procedures/govscot%3Adocument/Police%2BService%2Bof%2BScotland%2B%2528conduct%2529%2Bregulations%2B2014.pdf) provides further information on the process and allegations are categorised in line with the regulated [Standards of Professional Behaviour](https://www.scotland.police.uk/about-us/who-we-are/our-standards-of-professional-behaviour/).

The Police Scotland [Complaints About the Police (CAP) Standard Operating Procedure (SOP)](https://www.scotland.police.uk/spa-media/lgyddvsi/complaints-about-the-police-sop.docx) outlines how we deal with complaints. Allegations are recorded in accordance with the categories listed at appendices C and D. The CAP SOP outlines that all allegations of on duty criminality are reported to the Crown Office and Procurator Fiscal Service (COPFS) for independent assessment and to enable consideration of criminal proceedings.

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, 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 officer 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.

Data has been provided in relation to the number of criminal allegations received between 01/04/2014 and 18/08/2023 inclusive.

Each case may involve multiple allegations and (for complaints only) each allegation may be linked to multiple subject officers.

The data provided below refers, separately, to criminal allegations attached to complaints and conduct cases.

*Table: Criminal allegations (Complaints), by financial year received 1 2*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 681 | 533 | 414 | 256 | 302 | 509 | 557 | 550 | 669 | 233 |

*1 Data is based on the case received date.
2 Data for 2023/24 covers the period 01/04/2023 to 18/08/2023 inclusive.*

*Table: Criminal allegations (Conduct), by financial year received 1 2*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 258 | 401 | 398 | 353 | 351 | 388 | 312 | 354 | 338 | 160 |

*1 Data is based on the case received date.
2 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

* **A breakdown by officer rank**

Please note that subject officers are counted once per case.

Each case may involve multiple allegations and (for complaints only) each allegation may be linked to multiple subject officers.

Furthermore, unidentified officers are excluded from the rank breakdown of subject officers as they have not been positively identified and therefore a rank cannot be attributed.

The data provided below refers, separately, to subject officers linked to criminal allegations attached to complaints and conduct cases.

You will note that the exact rank of officers beyond Sergeant rank has not been provided.

Were details 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 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 following exemption applies:

Section 38(1)(b) - 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.

*Table: Subject officers linked to criminal allegations (Complaints), by rank and financial year received 1 2*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Rank** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| Constable | 654 | 467 | 339 | 244 | 272 | 387 | 448 | 440 | 449 | 107 |
| Sergeant or above | 83 | 51 | 50 | 20 | 27 | 49 | 37 | 28 | 23 | 8 |
| **Total** | **737** | **518** | **389** | **264** | **299** | **436** | **485** | **468** | **472** | **115** |

*1 Data for 2023/24 covers the period 01/04/2023 to 18/08/2023 inclusive.
2 Unidentified officers are excluded from the table above.*

*Table: Subject officers linked to criminal allegations (Conduct), by rank and financial year received 1*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Rank** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| Constable | 177 | 268 | 262 | 251 | 252 | 253 | 206 | 254 | 245 | 119 |
| Sergeant or above | 41 | 74 | 55 | 62 | 48 | 65 | 40 | 45 | 49 | 35 |
| **Total** | **218** | **342** | **317** | **313** | **300** | **318** | **246** | **299** | **294** | **154** |

*1 Data for 2023/24 covers the period 01/04/2023 to 18/08/2023 inclusive.*

* **The outcomes of those allegations - for Complaints that will be upheld/ not upheld etc - for Conduct files that will be various forms of disciplinary action/ dismissal etc**

Data has been provided in relation to allegation results (Complaints only) and disposals (Conduct only) for criminal allegations received between 01/04/2014 and 18/08/2023 inclusive, where concluded.

Please note that allegations received may remain subject to live enquiry and/or legal proceedings, therefore may not yet be concluded.

*Table: Criminal allegations (Complaints), by allegation result and financial year received 1*

| **Allegation Result** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Abandoned | 29 | 49 | 46 | 23 | 27 | 34 | 47 | 43 | 23 | 1 |
| Not Relevant Complaint | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 |
| Not Upheld | 571 | 424 | 286 | 190 | 232 | 414 | 437 | 366 | 312 | 29 |
| Resolved by FLR (Explanation) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Upheld | 32 | 17 | 40 | 8 | 5 | 1 | 2 | 5 | 2 | 0 |
| Withdrawn | 49 | 40 | 37 | 25 | 28 | 19 | 21 | 26 | 30 | 6 |
| Ongoing - not yet resulted | 0 | 3 | 5 | 10 | 10 | 41 | 50 | 110 | 300 | 196 |
| **Grand Total** | **681** | **533** | **414** | **256** | **302** | **509** | **557** | **550** | **669** | **233** |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

*Table: Criminal allegations (Conduct), by allegation disposal and financial year received 1*

| **Disposal** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Dismissal Without Notice | 1 | 7 | 1 | 1 | 2 | 0 | 0 | 3 | 2 | 0 |
| Demotion in Rank | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 |
| Final Written Warning | 5 | 5 | 9 | 7 | 4 | 3 | 9 | 3 | 2 | 0 |
| Written Warning | 7 | 8 | 1 | 9 | 1 | 1 | 3 | 2 | 0 | 0 |
| Verbal Warning | 6 | 5 | 3 | 0 | 1 | 1 | 0 | 2 | 0 | 0 |
| Improvement Action | 1 | 5 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Management Action | 54 | 95 | 132 | 104 | 92 | 109 | 90 | 86 | 54 | 0 |
| Performance Regulations | 1 | 7 | 2 | 3 | 1 | 0 | 6 | 1 | 2 | 0 |
| Retired/Resigned | 44 | 52 | 38 | 27 | 43 | 59 | 26 | 20 | 8 | 0 |
| No Action | 139 | 217 | 192 | 196 | 199 | 190 | 130 | 155 | 98 | 22 |
| Ongoing - allegation not yet concluded | 0 | 0 | 19 | 6 | 8 | 24 | 48 | 80 | 172 | 138 |
| **Grand Total** | **258** | **401** | **398** | **353** | **351** | **388** | **312** | **354** | **338** | **160** |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

* **How many of the allegations alleged sexual criminality**

The PSD 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.

For the purpose of your request, cases to which this specific marker applies have been extracted.

Data is provided for criminal allegations received between 01/04/2014 and 18/08/2023 inclusive.

*Table: Criminal allegations involving a sexual circumstance (Complaints), by financial year received 1*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 13 | 26 | 14 | 22 | 19 | 24 | 10 | 18 | 24 | 4 |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

*Table: Criminal allegations involving a sexual circumstance (Conduct), by financial year received 1*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 18 | 29 | 20 | 28 | 21 | 43 | 24 | 27 | 32 | 9 |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

* **How many of the allegations alleged rape specifically**

Data is provided for allegations of rape received between 01/04/2014 and 18/08/2023 inclusive.

*Table: Rape allegations (Complaints), by financial year received 1*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 0 | 3 | 1 | 1 | 1 | 0 | 1 | 1 | 1 | 0 |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

*Table: Rape allegations (Conduct), by financial year received 1*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 5 | 0 | 2 | 1 | 2 | 0 | 1 | 1 | 1 | 0 |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.*

* **How many of all the cases which contained allegations of criminality (one case can contain multiple allegations) were marked as having been reported to the Procurator Fiscal**

Data is provided in relation to police officers, as per the questions above.

For police staff data, I would refer you to our response to the questions that follow.

The tables below detail cases involving criminal allegations which were received between 01/04/2014 and 18/08/2023 inclusive and thereafter sent to the Procurator Fiscal.

Please note that each case may involve multiple allegations, therefore the number of cases may vary from the number of allegations.

As previously explained in our clarification discussions, it should not be assumed that these reports to COPFS are necessarily Standard Prosecution Reports (SPRs) that detail charges against individuals.

In accordance with the Police Scotland [Complaints About the Police Standard Operating Procedure (SOP)](https://www.scotland.police.uk/spa-media/lgyddvsi/complaints-about-the-police-sop.docx), all allegations of on duty criminality are reported to the Crown Office and Procurator Fiscal Service (COPFS) for independent assessment and to enable consideration of criminal proceedings to take place regardless of the evidence available.

*Table: Cases involving criminal allegations sent to the Procurator Fiscal (Complaints), by financial year received 1 2 3 4*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 354 | 270 | 200 | 143 | 168 | 232 | 238 | 172 | 104 | 15 |

*1 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.
2 Each case may involve multiple allegations, therefore the number of cases may vary from the number of allegations.
3 Criminal allegations sent to COPFS also include criminal allegations sent to Criminal Allegations Against the Police Division (CAAPD) and Police Investigations & Review Commissioner (PIRC).*

*Table: Cases involving criminal allegations sent to the Procurator Fiscal (Conduct), by financial year received 1 2 3*

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** | **20/21** | **21/22** | **22/23** | **23/24** |
| No. | 48 | 86 | 98 | 103 | 112 | 122 | 90 | 104 | 122 | 32 |

*1 Data is based on the case received date.
2 Data for 2023/24 covers the period of 01/04/2023 – 18/08/2023 inclusive.
3 Each case may involve multiple allegations, therefore the number of cases may vary from the number of allegations.*

**For each year 2014/15 to 2022/23 and 2023/24 to date:**

* **The number of allegations of criminality against police staff members**
* **How many of the allegations alleged sexual criminality**
* **How many of the allegations alleged rape specifically**
* **The outcomes of any disciplinary cases associated with those cases**

Allegations of police staff criminality are recorded differently to those against Police officers, which are managed and investigated in accordance with the formal complaint and conduct processes outlined above.

Having made enquiry with our People and Development team, I estimate that it would cost well in excess of the current FOI cost threshold of £600 to process your request.

I am therefore refusing to provide the information sought in terms of section 12(1) - Excessive Cost of Compliance.

To explain, there are no searches that would automatically identify all staff members who had faced criminal allegations during their period of employment.

The recording processes and categories used by our People and Development mean that any attempt to answer your questions would be a largely manual process, examining the detail of, for example, discipline cases.

If it would be of interest, we may be able to provide data regarding police staff who have faced allegations of *sexual misconduct* more generally - ie discipline cases not necessarily linked to allegations of criminality.

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.