| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-1910  Responded to: 12 September 2024 |
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Your recent request for information is replicated below, together with our response.

**In each of the past 5 years, how many Police Scotland officers have been subject to misconduct procedures for alleged breaches of data protection legislation?**

To provide some context to our response, you may find the following information useful.

The formal conduct process for Police Officers is governed by [The Police Service of Scotland (Conduct) Regulations 2014 (legislation.gov.uk)](https://www.legislation.gov.uk/ssi/2014/68/contents/made)

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.

The PSD database holds a ‘Data Protection’ circumstance marker which can be added to a Conduct case containing allegations which are perceived to contain a Data Protection element.

It is assessed that your questions on the “misconduct process” and “gross misconduct” are in relation to matters which have been subject to preliminary assessment at the Regulation 10 stage of the process, having been assessed as Misconduct or Gross Misconduct. It is possible that allegations assessed as such at the Regulation 10 stage may be subject to a different result at the Regulation 14 stage for Determination. Data has been provided below on the basis of preliminary assessments involving allegations with a Data Protection circumstance, broken down by the financial year of the Regulation 10 assessment.

Please note that allegations may have been received prior to the reporting period. Matters involving alleged criminality, including alleged breaches of Data Protection Act 2018, are only subject to preliminary assessment under The Police Service of Scotland (Conduct) Regulations 2014 once criminal investigations and/or legal proceedings are concluded.

All data provided below is based on the preliminary assessment date.

*Table 1- Number of officers subject to a preliminary assessment involving allegations with a Data Protection circumstance (Gross Misconduct or Misconduct only), by financial year:*

|  | **2019/20** | **2020/21** | **2021/22** | **2022/23** | **2023/24** |
| --- | --- | --- | --- | --- | --- |
| Number of officers | 15 | 23 | 22 | 9 | 23 |

## Of that number, how many have been

## (a) subject to misconduct process

## (b) subject to gross misconduct process

*Table 2 - Number of officers subject to a preliminary assessment involving allegations with a Data Protection circumstance (Gross Misconduct or Misconduct only), by assessment decision and assessment decision:*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Assessment Decision** | **2019/20** | **2020/21** | **2021/22** | **2022/23** | **2023/24** |
| Gross Misconduct | 3 | 3 | 3 | 1 | 6 |
| Misconduct | 12 | 20 | 19 | 8 | 17 |

## (c) dismissed from the service or resigned prior to a gross misconduct hearing?

Please note that allegations subject to preliminary assessment may remain subject to the misconduct process as the case may remain live. Therefore, allegations may not yet be concluded and subject to a final disposal.

Please also note that The Police Service of Scotland (Conduct) Regulations 2014 apply only to serving Police officers, therefore should an officer retire or resign at any stage of the misconduct process then the process immediately ceases. As a consequence, it is not necessarily the case that any subject officer who has decided to retire or resign following a preliminary assessment would have progressed to a gross misconduct hearing.

*Table 3 - Number of officers subject to a preliminary assessment involving allegations with a Data Protection circumstance (Gross Misconduct or Misconduct only) which resulted in dismissal or a retire/resign disposal, by maximum disposal and financial year:*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Maximum disposal** | **2019/20** | **2020/21** | **2021/22** | **2022/23** | **2023/24** |
| Dismissal | 0 | 0 | 0 | 0 | 0 |
| Retired/Resigned | 1 | 2 | 2 | 1 | 1 |

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.