| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-2407  Responded to: xx November 2023 |
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Your recent request for information is replicated below, together with our response.

I must first advise you that Recorded Police Warnings (RPWs) and Anti-Social Behaviour Fixed Penalty Notices (ASB FPNs) are just two of a range of disposal options available to Police Scotland, in relation to lower level offending.

These schemes are intended to have a positive impact on individuals by providing intervention mechanisms that are timely, justifiable and proportionate to the crime or incident under review.

## 1. The number of times an offender has appealed a Recorded Police Warning (RPW) in 2020-21, 2021-22 and 2022-23.

The requested information is provided in Table 1 below:

| **Reporting Period** | **Number of appeals** |
| --- | --- |
| 2020/21 | 150 |
| 2021/22 | 116 |
| 2022/23 | 98 |

## Please provide the number of times an RPW was appealed, broken down by the crime for which the RPW was initially given for.

The requested information is included in the response at Q2 below

## 2. Where an RPW was appealed in 2020-21, 2021-22 and 2022-23, the outcome of that appeal.

## For example, whether the appeal was upheld, or whether the appeal was declined. Further, if the appeal was declined, whether the offence went on to be prosecuted and/or convicted. Please provide the number of upheld and declined appeals in 2020-21, 2021-22 and 2022-23 broken down by the offence for which the RPW was given and following that the number of declined appeals that went on to be prosecuted and convicted, broken down by the offence that was prosecuted and/or convicted.

The requested information is provided in the tables below:

**Table 2: Outcome of RPW appeals recorded in reporting period 2020/21:**

| **2020-21** | **Outcome of Appeal** | | | |
| --- | --- | --- | --- | --- |
| **Type of Offence** | **Declined and a report submitted to the PF** | **RPW Accepted** | **Unknown** | **Upheld** |
| Assault (non-injury) | 19 | 1 | 0 | 4 |
| Breach of the Peace\* | 82 | 1 | 1 | 10 |
| Minor Theft | 10 | 0 | 0 | 4 |
| Vandalism | 5 | 0 | 0 | 3 |
| Other | 10 | 0 | 0 | 0 |

**Table 3: Outcome of RPW appeals recorded in reporting period 2021/22:**

| **2021-22** | **Outcome of Appeal** | |
| --- | --- | --- |
| **Type of Offence** | **Declined and a report submitted to the PF** | **Upheld** |
| Assault (non-injury) | 23 | 7 |
| Breach of the Peace\* | 52 | 5 |
| Minor Theft | 5 | 3 |
| Misuse of Drugs | 2 | 2 |
| Vandalism | 4 | 3 |
| Other | 7 | 3 |

**Table 4: Outcome of RPW appeals recorded in reporting period 2022/23:**

| **2022-23** | **Outcome of Appeal** | |
| --- | --- | --- |
| **Type of Offence** | **Declined and a report submitted to the PF** | **Upheld** |
| Assault (non-injury) | 27 | 1 |
| Breach of the Peace\* | 42 | 6 |
| Licensing Offences | 1 | 0 |
| Minor Theft | 6 | 4 |
| Misuse of Drugs | 2 | 0 |
| Vandalism | 5 | 1 |
| Other | 3 | 0 |

\*Breach of the Peace, including offences under the Criminal Justice and Licensing (Scotland) Act 2010 (Section 38).

## 3. Of all the Recorded Police Warnings handed out for drug crimes in 2020-21, 2021-22 and 2022-23, the specific type of crime that the Recorded Police Warning was issued for. For example, possession of drugs, possession with intent to supply etc. Please provide the number of Recorded Police Warnings issued for each type of drug crime in the financial years of 2020-21, 2021-22 and 2022-23.

Having considered this question in terms of the Act, I regret to inform you that I am unable to provide you with the very specific 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, the only way to provide an accurate response to your request would be to carry out an individual check of thousands of crime reports – accordingly this would be an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

To illustrate, I can advise you that a recent check of our systems provide that the total number of occasions an RPW was issued for a Misuse of Drug offence in each reporting period is as follows:

Table 5: Total RPWs issued for Misuse of Drug offences

| **Reporting Period** | **Number of RPWs issued for Misuse of Drug offences** |
| --- | --- |
| 2020/21 | 6,371 |
| 2021/22 | 5,312 |
| 2022/23 | 6,738 |

There are measures in place to ensure that Recorded Police Warnings are only issued for suitable offences.

Prior to the change in the Lord Advocate guidelines on the 28 September 2021, anyone found to be in possession of a Class A drug was not suitable for a Recorded Police Warning therefore it would not have been issued.

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.