| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 24-0781Responded to: xx April 2024 |
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Your recent request for information is replicated below, together with our response.

## How many misconduct hearings have been held by your police force in 2020, 2021, 2022, 2022, 2023 and 2024 (so far). Please provide a breakdown per calendar year.

##  How many private misconduct hearings have been held by your police force in 2020, 2021, 2022, 2022, 2023 and 2024 (so far). Please provide a breakdown per calendar year.

All misconduct hearings in Scotland are conducted in private.

The formal conduct 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). Of note, information relating to misconduct hearings is noted within Regulation 14.

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) further details the process.

Please note that hearings data is publicly reported by the Professional Standards Department to the [SPA Complaints and Conduct Committee](https://www.spa.police.uk/what-we-do/governance-meetings/complaints-and-conduct-committee/). Of note, these figures are based on scheduled hearings, which will include instances where an officer retires or resigns prior to a scheduled hearing. As your request relates to hearings held, instances where an officer has retired or resigned prior to a hearing – therefore the hearing has not been held - have not been included in our response below.

*Table 1 – Number of misconduct hearings held per calendar year 1, 2*

|  | **2020** | **2021** | **2022** | **2023** | **2024** |
| --- | --- | --- | --- | --- | --- |
| **Total Hearings** | **10** | **1** | **13** | **10** | **6** |

*1 Data is based on the hearing date.*

*2 Data for 2024 covers the period of 01/01/2024 – 19/03/2024 inclusive.*

## 3. Please also provide a breakdown by rank of those who faced private misconduct hearings by your force per year.

As noted previously, all misconduct hearings in Scotland are conducted in private.

*Table 2 – Officers subject to a misconduct hearing held by rank per calendar year 1 2*

| **Rank** | **2020** | **2021** | **2022** | **2023** | **2024** |
| --- | --- | --- | --- | --- | --- |
| Constable | 9 | 1 | 13 | 12 | 3 |
| Sergeant or above | 1 | 0 | 5 | 0 | 3 |
| **Total** | **10** | **1** | **18** | **12** | **6** |

*1 Data is based on the hearing date.*

*2 Data for 2024 covers the period of 01/01/2024 – 19/03/2024 inclusive.*

Please note some Hearings involved more than one officer therefore the total number of officers subject to a misconduct hearing differs from the total number of misconduct hearings held.

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 could relate is considered sufficiently low that there exists the potential for individuals to be easily identified.

It has been assessed that inclusion of details as to the exact rank of officers beyond Sergeant rank would be considered personal data.

In terms of section 16 of the Act, I am therefore refusing to provide you with this information and I am therefore required to provide you with a notice which:

(a) states that it holds the information,
(b) states that it is claiming an exemption,
(c) specifies the exemption in question and
(d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that the information sought is held by Police Scotland and the exemption I consider to be applicable is section 38(1)(b) of the Act - 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.

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.