| Police Scotland logo | Freedom of Information Response Our reference: FOI 23-1169  Responded to: 4th July 2023 |
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Your request for information is replicated below, together with our response.

Please accept our apologies for the delay in responding.

By way of background, 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 Conduct process you may also be interested in our [Suspension from Duty SOP](https://www.scotland.police.uk/spa-media/3mbmetbo/suspension-from-duty-sop.pdf).

## 1 As of 3rd May, how many warranted officers are currently suspended from duty? Please indicate the numbers of suspended officers at each rank, and if they are suspended for alleged non-criminal misconduct or alleged criminality.

Data has been provided below detailing the number of Police officers suspended as at 03/05/2023, broken down by rank and case status.

As regards the case status, please note that matters which are subject to the Conduct process may have been subject to criminal proceedings at an earlier date.

Only when criminal matters are concluded will the circumstances be considered in relation to The Police Service of Scotland (Conduct) Regulations 2014 or, where the allegation precedes their enactment on 01/04/2014, The Police Service of Scotland (Conduct) Regulations 2013.

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| **Police Officer Suspensions by Rank** | **Number** |
| Special Constable | 3 |
| Constable | 52 |
| Sergeant or above | 7 |
| Total | 62 |

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| **Police Officer Suspensions by Case Status** | **Number** |
| Conduct | 24 |
| Investigation or criminal proceedings | 38 |
| Total | 62 |

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You will note that officers of the rank of Sergeant or above have been grouped together into one category.

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

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.

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.

All subsequent questions in this response have been answered in the same way on that basis.

## 2 As of 3rd May, how many warranted officers are currently repositioned as a result of being under investigation for alleged misconduct? Please indicate the numbers of repositioned officers at each rank.

Officers ‘repositioned’ has been interpreted as officers subject to duty restrictions.

Data has been provided below detailing the number of Police officers subject to duty restrictions as at 03/05/2023, broken by rank and case status.

As regards the case status, please note that matters which are subject to the Conduct process may have been subject to criminal proceedings at an earlier date.

Only when criminal matters are concluded will the circumstances be considered in relation to The Police Service of Scotland (Conduct) Regulations 2014 or, where the allegation precedes their enactment 01/04/2014, The Police Service of Scotland (Conduct) Regulations 2013.

| **Police officers restricted by Rank** | **Number** |
| --- | --- |
| Special Constable | 1 |
| Constable | 85 |
| Sergeant or above | 14 |
| Total | 100 |

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| **Police officers restricted by Case Status** | **Number** |
| Conduct | 17 |
| Investigation or Criminal Proceedings | 83 |
| Total | 100 |

## 3 As of 3rd May, how many warranted officers are currently under investigation for alleged misconduct? (Whether or not they have been suspended, repositioned, or left in post). Please indicate the numbers of officers under investigation at each rank.

Officers subject to a misconduct investigation are issued a written notice under regulation 11 of The Police Service of Scotland (Conduct) Regulations 2014.

A total of 7 officers were subject to a live investigation for matters initially assessed as Misconduct at 03/05/2023, having been served a regulation 11 notice.

| **Police officers subject to investigation following initial assessment of Misconduct, by Rank** | **Number** |
| --- | --- |
| Special Constable | 1 |
| Constable | 5 |
| Sergeant or above | 1 |
| Total | 7 |

## 4 As of 3rd May, how many warranted officers are currently under investigation for alleged gross misconduct? (Whether or not they have been suspended, repositioned or left in post). Please indicate the numbers of officers under investigation at each rank.

## Please consider this as an extension of our response to question 3 above.

A total of 20 officers were subject to a live investigation for matters initially assessed as Gross Misconduct at 03/05/2023, having been served a regulation 11 notice.

| **Police officers subject to investigation following initial assessment of Gross Misconduct, by Rank** | **Number** |
| --- | --- |
| Special Constable | 1 |
| Constable | 13 |
| Sergeant or above | 6 |
| Total | 20 |

## 5 As of 3rd May, how many warranted officers are currently under investigation for alleged criminal offences? (Whether or not they have been suspended, repositioned or left in post). Please indicate the numbers of officers under investigation at each rank.

325 individual officers in total are linked to a live criminal allegation.

Matters which have been reported to the Crown Office Procurator Fiscal Service (COPFS) are excluded from this figure, as are Road Traffic offences linked to a Fixed Penalty Notice and officers who have left service (as at 05/06/2023).

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| **Police officers linked to a criminal allegation and subject to live investigation, by Rank** | **Total** |
| Special Constable | 2 |
| Constable | 296 |
| Sergeant or above | 27 |
| Total | 325 |

## 6 As of 3rd May, how many officers have been prevented from being promoted from the most recent rounds of promotion processes at each rank by reason of being under investigation for alleged misconduct or criminality? Please indicate the numbers at each rank. (Eg number of constables who have passed the constable to sergeant promotion process but are currently prevented from being offered a promotion by reason of the misconduct investigation process, and the same for promotion to higher ranks).

Three Police Constables had their promotion (to Sergeant) deferred in May due to a misconduct investigation.

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.