



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

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Sam Howard

By e-mail:

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Tel: 0300 020 3000
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Your ref:
Our ref: R022897

4 March 2020

Dear Sam Howard,

I refer to your email dated 13 February 2020 in which you requested the following information under the Freedom of Information (Scotland) Act 2002 (FOISA):

In respect of this request, questions 2, 3 and 5 which have been refused on the basis that it would prove too costly to provide this information.

In regards these points, please dip sample 9 cases broken down to 3 from each of the previous 3 years.

Please provide answers to the questions 2, 3 and 5 by selecting three cases AT RANDOM from the years 2016-17, 2017-18 and 2018-19. It is my assessment that's this information could be provided within the context of the legislation.

Please confirm in writing that these cases dip sampled have been chosen at random and not those cases picked to reflect any perceived 'best result'.

Your request of 13 February 2020 refers to questions from a previous response to you (R022688). Specifically, it refers to questions 2, 3 and 5. I will provide these below for ease of reference when reading this response. The referenced "criminal complaints" below refer to criminal allegations against the Police.

2) Please confirm of all the criminal complaints received by the PF since 2013, how many of these progress to trial? Please break this down per year.

3) Please confirm of all the criminal complaints received by the PF since 2013, how many of these Result in a guilty verdict? Please break this down per year.

5) Please confirm the average time, broken down by year since 1 April 2013 that a complaint takes from arriving with the PF until being concluded and returned to Police Scotland.

I can confirm that 9 cases have been dip sampled and these have been broken down to 3 cases from each of the previous 3 years. I can confirm that these cases



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have been selected at random and were not selected to reflect any perceived 'best result'. I will answer questions 2, 3 and 5 below, the answers being drawn from the 3 random cases from each year which were requested by you and the questions restructured according to your request of 13 February 2020.

2) Please confirm of the three randomly sampled criminal complaints received from the years 2016-17, 2017-18 and 2018-19, how many of these progress to trial? Please break this down per year.

- Of the 3 cases randomly selected from the year 2016-2017 I can advise that 1 case proceeded to trial.
- Of the 3 cases randomly selected from the year 2017-2018 I can advise that 1 case proceeded to trial.

It may assist if I explain that of the 3 cases randomly selected for 2017-2018 whilst one of these cases proceeded to trial COPFS records indicate that the other 2 of these cases received fixed penalties. These are referred to as direct measures.

It may help if I explain that in some cases where there is sufficient evidence to prosecute the accused, it is considered that a prosecution would not be the best way to deal with the offending behaviour of the accused. Parliament has through legislation provided prosecutors with powers to prosecute an offence through non-court action.

These actions or 'direct measures,' will often provide a wholly appropriate and proportionate response to many forms of offending. Such direct measures include diversion for Fiscal Fine, Social Work assistance, a warning letter, personal warning, Road Traffic Fixed Penalty, and Fiscal Compensation Order. All of these options have the advantage of diverting cases from court and ensuring a swift resolution for the complainer. Direct measures have the advantage of avoiding the distress and inconvenience complainers and witnesses can experience when attending court to give evidence.

I will clarify that no court proceedings were raised in these cases so the accused did not plead guilty before any trial. The accused was offered a 'direct measure' from the outset.

You may be interested to know that the information about direct measures will be recorded on the Scottish Criminal History System (SCHS) and will remain on the system for two years. This will be used to help inform future police or prosecution decisions if the accused offends again and it will be disclosable under 'enhanced disclosure' in terms of Part V of the Police Act 1997 during this time. During a period of two years from the date of acceptance, of the offer, the information recorded on the SCHS may also be disclosed to the court in any proceedings for any further offences.

- Of the 3 cases randomly selected from the year 2018-2019 I can advise that 1 case proceeded to trial.

I can also advise that from the 3 cases randomly selected from the year 2018-2019 one case received a fixed penalty.



3) Please confirm of the three randomly sampled criminal complaints received from the years 2016-17, 2017-18 and 2018-19, how many of these Result in a guilty verdict? Please break this down per year.

- Of the 3 cases randomly selected from the year 2016-2017 I can advise that 1 case resulted in a guilty verdict.
- Of the 3 cases randomly selected from the year 2017-2018 I can advise that no cases resulted in a guilty verdict.
- Of the 3 cases randomly selected from the year 2018-2019 I can advise that 1 case resulted in a guilty verdict.

5) Please confirm the average time, broken down by years from 2016 to 2019, that a complaint takes from arriving with the PF until being concluded and returned to Police Scotland.

- Of the 3 cases randomly selected from the year 2016-2017 I can advise that the average time that a complaint took from arriving with the PF until being concluded was 289.3 days.
- Of the 3 cases randomly selected from the year 2017-2018 I can advise that the average time that a complaint took from arriving with the PF until being concluded was 215 days.
- Of the 3 cases randomly selected from the year 2018-2019 I can advise that the average time that a complaint took from arriving with the PF until being concluded was 141.6 days.

If you are dissatisfied with the COPFS response to your FOI request you have the right to ask us to review it. Your review request should be made within 40 working days of receipt of this letter; please e-mail foi@copfs.gsi.gov.uk and we will reply within 20 working days of receipt.

The review will be undertaken by a member of the COPFS FOI unit who was not involved in the original consideration of your request.

Under section 47(1) of FOISA if the COPFS position is unchanged following a review you have the right to appeal to the Scottish Information Commissioner within six months of receiving the review.

Under section 48(c) of FOISA that right of appeal might be limited as it can be subject to what information is requested. It is for the Scottish Information Commissioner to decide if he will accept your appeal on a case by case basis.



Yours sincerely,



G Connor
Response and Information Unit

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www.copfs.gov.uk.

