

request-28572-0a6c9040@whatdotheyknow.com

27<sup>th</sup> August 2010

90 High Holborn  
London WC1V 6BH

Tel: 020 7166 3000

Fax: 020 7404 0430

Minicom: 020 7404 0431

Email: enquiries@ipcc.gsi.gov.uk

Web: www.ipcc.gov.uk

Dear Mr Canning

**Request for review of the IPCC's decision under the Freedom of Information Act 2000**

Your email dated 31<sup>st</sup> July requesting a review of the IPCC's decision of the 27<sup>th</sup> July has been passed to me as the IPCC's reviewing officer. I note that you have not provided specific grounds as to why the original decisions were wrong and so I have conducted a general review.

Your original request was in three parts and so I will deal with them in the order they appear in Mr Johnston's letter.

**Request 1**

*Please supply all the information you hold on the case of the officer highlighted in the ITN article below, especially why it took over 10 years to prosecute the officer even though there were many complaints over the years.*

Mr Johnston interpreted your request as being for all the information held by the IPCC in connection with investigations into the conduct of former Commander Ali Dizaei.

Mr Johnston referred you to two items on the IPCC website and relied on the exemption in s.21 of the Freedom of Information Act (FoIA) that is that the information was reasonably available by other means. In my view his reliance on that exemption was reasonable.

Mr Johnston also informed you that the IPCC holds a substantial amount of information in connection with enquiries into Mr Dizaei's conduct. However, he declined to make that information available because he considered that it was exempt under s.44(1)(a), s.30(1)(a)(i), s.40(2) and s.40(3)(a)(i) of FoIA. In relation to the information falling within s.30(1)(a)(i), Mr Johnston also considered that the public interest in maintaining the exemption outweighed the public interest in disclosure.

I have reviewed his reasons and will deal with each in turn.

**S.44(1)(a)**

Some of the information you have requested was received by the IPCC pursuant to its functions under the Police Act 1996. S.80 of the Police Act

1996 prohibits disclosure of this information subject to some exemptions. None of these apply in your case. S.44(1)(a) provides an absolute exemption from disclosure of information which is prohibited by any enactment.

Therefore I consider that Mr Johnston was right to rely on this exemption in relation to information received by the IPCC under the Police Act 1996.

**S.30(1)(a)(i)**

This section, as you know, exempts information if it has been held for the purposes of any investigation which the public authority has a duty to conduct with a view to ascertaining whether a person should be charged with an offence.

The IPCC holds information in relation to Mr Dizaei in connection with its functions under the Police Reform Act 2002; that is, information held for the purposes of its investigation

Mr Johnston then went on to consider the public interest test and concluded that the public interest in maintaining the exemption outweighed the public interest in disclosure. He gave extensive reasons in his letter and I do not propose to rehearse them here. I consider that both his reasons and his conclusion were sound.

**S.40(2) and S.40(3)(a)(i)**

These exemptions relate to personal data of third parties. The information you are requesting will consist of witness statements, forensic reports, operational policing records, correspondence etc.

It is therefore personal data and, in the case of Mr Dizaei, may well also be sensitive personal information. On that basis, I consider that Mr Johnston was correct to rely on these exemptions

**Request 2**

*Information why you are at this stage allowing a similar situation to go in relation to the following people's complaints as well as others.*

You provided details of 13 named individuals. In his decision letter, Mr Johnston relied on s. 40(5)(b)(i) of the Freedom of Information Act and declined to confirm or deny whether the IPCC held the information you had requested.

Whilst Mr Johnston was able to rely on this provision, I do not find it helpful. I have not checked what information the IPCC holds but I imagine that you are aware that the IPCC does hold information relating to some or all of the individuals you refer to because of other information you have access to.

I am therefore remitting this request back to the Freedom of Information Team and asking them to consider your request for disclosure of any information held.

Can I also suggest that you consider making a subject access request under the Data Protection Act 1998.

**Request 3**

*What information does the IPCC hold that reconcile (sic) with the statements from the CPS, the IPCC and the trial judge in the Commander Ali Dizaei case that police officers are not above the law, criminal and bullies in uniform should be confronted and prosecuted, given the continual refusal of the police and the IPCC to investigate the corruption of various persons that you have been made very familiar with over a number of years?*

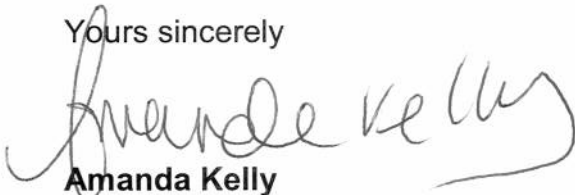
Mr Johnston said in his letter of 27<sup>th</sup> July that the IPCC did not hold “any information which could reasonably be interpreted as confirming that it has allowed corrupt officers to avoid justice or has refused to investigate alleged corruption”. He went on to say that “It is a matter of subjective opinion as to whether or not any of the information you are requesting actually exists and for the reason no relevant information can be identified from the description given”.

Having reviewed this request, I consider that it would be difficult to provide a meaningful response as the request is not sufficiently clear. However, I would like to suggest that you consider rephrasing your request in order to particularise the information you are seeking. Mr Johnston would be happy to assist you in this. However, you should also bear in mind that the information you request may be the subject of one or more exemptions.

I hope that you appreciate the reasons for my decisions but if you wish you may apply to the Information Commissioner for a decision as to whether your request has been dealt with according to the Act. His address is:

Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF.

Yours sincerely



**Amanda Kelly**  
**Director of Corporate and Legal Services**