

Your Reference:
Our Reference: PJ/1002068

Richard Taylor
By e-mail to:
request-30378-8cc37f21@whatdotheyknow.com

30 April 2010

IPCC Contact:
Philip Johnston

Dear Mr Taylor,

YOUR REQUEST FOR INFORMATION

I am sorry about the delay in replying to your e-mail of 9th March 2010 in which you request information in relation to guidance given by the IPCC about the classes of persons who are entitled to make a complaint against police.

My responses to each of your questions are as follows:

(i) Any information on which the IPCC's guidance is based and/or any information which supports the position taken by its guidance.

(ii) Correspondence sent by the IPCC to any police force or forces clarifying the position.

Further information is available in the form of the Commission's Statutory Guidance to police forces which can be viewed on line at www.ipcc.gov.uk/2010_statutory_guidance-2.pdf However, the Guidance does not expand significantly upon the definition given in sections 12(1)(c) and 12(5) of the Act and I have confirmed that the IPCC holds no information on this subject in addition to what is stated on pages 24 and 25 of the Guidance. It appears that during the consultation process leading up to the publication of the new Guidance on 1st April 2010, there was no significant debate or disagreement between the IPCC and the police service as to the scope of the complainant 'categories' specified in section 12.

While it is likely that disputes have arisen in specific cases as to the scope of section 12(1)(c) and these disputes have come to the attention of the IPCC, for example in the context of an appeal by a member of the public against the decision of a force not to record a complaint, there is unfortunately no systematic way of identifying these cases from all the other cases held by the IPCC that could have given rise to determination by the IPCC on this provision. Since it came into existence on 1st April 2004, the IPCC has received in excess of 3,000 appeals against the non-recording of a complaint and I estimate that it would take at least 5 minutes per case to identify whether it contains any relevant information and then to extract that information so that it can be considered for disclosure in response to your request.

Finding each of the cases relevant to your request would therefore greatly exceed the cost limit under section 12 of the Freedom of Information Act, which limit is set in Regulations at £450 or 18 hours work at £25 per hour. Accordingly, I find that the IPCC is not obliged to answer this aspect of your request.

(iii) Any statistics held by the IPCC which may assist me in determining how many complaints are not considered valid due to a complainant not being considered a direct witness of the occurrence. The IPCC does not hold the information from which it would be possible to identify all cases in which a complaint has not been recorded because the complainant did not satisfy the definition of a witness in section 12 of the Police Reform Act. It is likely that appeals to the IPCC against the non-recording of complaints will include cases falling into this category but, for the reasons stated above, such cases cannot be identified without carrying out a manual search which would exceed the cost limit under section 12 of the Freedom of Information Act.

As you may be aware, the IPCC publishes data concerning the number of complaints made by complainants in each of the categories under section 12 of the 2002 Act. This data, which can be viewed on the IPCC web site at <http://www.ipcc.gov.uk/index/resources/research/stats.htm> , is based upon data provided annually to the IPCC by the police.

If you are not satisfied with this response you may request an independent internal review by our FOI appeals officer, who has had no involvement in dealing with your request. If you wish to complain about any aspect of this decision, please contact:

Freedom of Information Act Complaints
IPCC
90 High Holborn
London
WC1V 6BH

E mails should be clearly marked 'Complaint against FOI decision' and sent to: foi@ipcc.gsi.gov.uk.

Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner; however, I should point out that under section 50(2)(a) of the Freedom of Information Act, you are normally obliged to exhaust the public authority's own internal complaint mechanism before complaining to the Information Commissioner.

Yours sincerely

Philip Johnston
Independent Police Complaints Commission