

Your Reference:
Our Reference: PJ/1002081

Mark Purdy
By e-mail to:
request-30719-a42cf701@whatdotheyknow.com

12 May 2010

IPCC Contact:
Philip Johnston
Tel: 020 7166 3000

Dear Mr Purdy,

Re YOUR REQUEST – FREEDOM OF INFORMATION ACT 2000

I am sorry about the delay in replying to your e-mail of 13th March 2010.

You make the following request:

- 1. Please may I have a list (by name) of all IPCC investigators or case managers, of any level, that are or were police officers or employees of any UK police service.*
- 2. Please inform me of any policy at the IPCC relating to informing a complainant whether persons managing or investigating their claim, are current or former police officers?*

As you may be aware, although the Freedom of Information Act (FOIA) carries a presumption in favour of releasing information, it does contain exemptions which can be applied in certain circumstances either to allow public authorities to withhold information while confirming that they have it in their possession, or to allow them to refuse to confirm whether they hold the information at all.

In answer to your first question, I can confirm that the following IPCC senior investigators are ex-police officers: Simon Cousins, John Cummins, Paul Davies, Steven Evans, Michael Grant, Peter Orr, Joseph Penrose and Steven Reynolds.

The table below shows the distribution of ex-police officers and ex-police civilian staff amongst IPCC staff. The senior investigator who is an ex-police civilian was also an ex-police officer and is therefore included amongst the eight names given above. There are no serving police officers or police civilian staff currently working for the IPCC.

Job Title	COUNT(*)	Ex Police Officer	Ex Police Civilian
Investigator	92	20	10
Deputy Senior Investigator	31	13	5
Senior Investigator	10	8	1
Casework	122	1	8
Other	210	12	25
Total staff	465	54	49

The IPCC does not hold any information that falls within the terms of your second question.

We have decided that the IPCC is not obliged to release the remainder of the information it holds in answer to your first question. This information is being withheld because it engages the exemption from the right to know contained in section 40 of the FOIA. Our reasons for withholding this information in reference to section 40 are as follows.

FOIA section 40 - personal information

Section 40 of the Freedom of Information Act preserves the Data Protection Act restrictions on the disclosure of personal information. Information as to the career history of an individual who is identified by name falls within the definition of 'personal data', so that the Data Protection Act 1998 is engaged.

Section 40 sub-sections (2) and (3) of the Freedom of Information Act exempt personal information relating to persons other than the person making the request where disclosure of this personal information would contravene any of the data protection principles. In this case it is the first data protection principle that needs to be considered. This requires that the processing of personal data should be fair and lawful and that at least one of the conditions in Schedule 2 of the DPA must be met.

In considering whether or not complying with your request in full would be unfair on the individuals concerned and therefore contravene the requirements of the first principle, the IPCC has taken the following factors into account:

1. The individual's reasonable expectations of what would happen to their personal data
2. The seniority of the individual
3. Whether disclosure would cause any unnecessary or unjustified damage to the individual
4. The legitimate interests of the public in knowing the identity of the individual against the effects of disclosure of their name.

Consistent with guidance from the Information Commissioner, the IPCC accepts that public sector employees should expect some information about their roles and the decisions they take to be disclosed under the Act. A distinction can be drawn, however, between the types of information which junior staff should expect to have disclosed about them compared to what information senior staff should expect to have disclosed about them. This is because the more senior a member of staff is the more likely it is that they will be responsible for making significant policy decisions and/or decisions as to the expenditure of significant public funds.

For these reasons, the IPCC considers that individuals in the role of senior investigator have a reasonable expectation that information about their career history would be disclosed where, as in regard to your request, this is directly relevant to issues of transparency and accountability and the performance of their current duties. Conversely, a relatively junior member of staff with no outward facing role and more limited responsibilities would not reasonably expect details of his or her career

history to be published. Decisions made in the context of police complaints and misconduct are often contentious and there is a lesser expectation that an individual in a lower grade should be able to withstand the type of personal criticism that would be more likely to follow if they are identified with an unwelcome decision and details of his or her career background are available to the public. It is the view of the IPCC that this risk to privacy cannot be justified in respect of persons it employs who occupy more junior positions.

It is also necessary to consider whether disclosure of the policing background of any staff other than senior investigators and junior employees can be brought within the first principle because such processing would be compliant with at least one of the conditions in Schedule 2 of the 1998 Act. As no staff members have not consented to disclosure, I find that your request must be refused insofar as it relates to these individuals *unless* Condition 6(1) can be met.

Under Condition 6(1) of Schedule 2, it is necessary to balance the legitimate public interest in disclosure against the interests of the individuals whose data it is.

There is a legitimate public interest in the disclosure of information that enables the public to decide for itself whether the IPCC is, as it claims, an independent organisation. For this reason, the IPCC accepts that the public has a right to know how many former or serving police officers and civilian staff are employed by the IPCC and in what positions. The IPCC does not accept, however, that there is a legitimate public interest in the disclosure of the identities of all these persons that would be sufficient to justify the degree of risk to their privacy that would be likely to result.

It is concluded that further disclosure is not necessary for the purposes of the legitimate interests of the IPCC or the persons to whom the information will be disclosed. We find that the public interest in disclosure is met by a combination of:

- Confirmation of the names of the IPCC senior investigators
- Confirmation of the number of serving and former police officers and civilian staff at IPCC and the positions they hold
- The internal rules and procedures, as outlined above, which have been introduced with the aim of safeguarding the independence of the IPCC

In these circumstances, the disclosure of further names would not add value to the information already in the public domain and would not be reasonable and proportionate to the legitimate aim of informing the public about how the IPCC safeguards its independence. The reason why there is likely to be an adverse effect on more junior staff is explained above and it is concluded that the potential for such harm to the legitimate interests of all staff below the level of Senior Investigator (this includes all casework staff) would be unwarranted when there would be little or no legitimate purpose served by releasing their names.

Accordingly, it has been decided that further compliance with your request would contravene the Data Protection Act, thus engaging the exemption in section 40(2) and 40(3)(a)(i) of the Freedom of Information Act.

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

May 12, 2010

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.

I am sorry about the delay in replying.

Yours sincerely

Philip Johnston
Independent Police Complaints Commission