



# Home Office

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Ian Orlebar  
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FOI Ref: CR20432

15 November 2011

Dear Mr Orlebar

Thank you for your e-mail of 25 October 2011, in which you ask:

- 1. Please advise what Home Office advice has been given to chief officers of police to implement immediately changes in their procedures with regard to the harvesting of DNA samples and other SPD from innocent persons (those not charged with any offence) to make such procedures compliant with UKSC judgment 21 of 18<sup>th</sup> May 2011, which clarifies the law stare decisis to confirm to ECHR, pending any potential change in legislation.**
- 2. If no advice has been given, please advise the reason for not advising chief officers of police to comply with the law, and to desist and refrain from harvesting the DNA and other SPD of persons not charged with any offence.**
- 3. As UKSC 21 clearly points up the unlawful nature of advice to chief officers of police as given to them by their private limited company messrs ACPO Ltd, what action is in contemplation to proscribe this iniquitous ultra vires cabal of public servants?**

Your first query has been handled as a request for information under the Freedom of Information (FoI) Act 2000. We do not, however, consider that your second or third queries fall within the definition of a FoI request under the Act and we have, therefore, handled them as regular correspondence. An answer to your second and third queries is provided at the end of this letter.

In answer to your first query, the Government has not issued any guidance to chief officers of police in the light of the Supreme Court Judgement, *R (on the application of GC & C) v The Commissioner of the Metropolis* [2011] UKSC 21, to which you refer.

I hope this information meets your requirements. I would like to assure you we have provided you with all relevant information the Home Office holds.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference **CR20432**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team  
Home Office  
Ground Floor, Seacole Building  
2 Marsham Street  
London SW1P 4DF  
E-mail: [FOIRequests@homeoffice.gsi.gov.uk](mailto:FOIRequests@homeoffice.gsi.gov.uk)

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

To answer your second query, the reason that no such guidance has been issued is that, whilst the Supreme Court found the current retention regime to be unlawful, it nevertheless declined to offer a specific remedy, holding (at paragraph 47) that:

*“The legislature must be allowed a reasonable time in which to produce a lawful solution to a difficult problem”.*

On 11 February 2011 (i.e. the week after the Supreme Court hearing), the Government introduced to Parliament the Protection of Freedoms Bill, which sets out, in Chapter 1 of Part 1, proposals to adopt the protections of the Scottish model for DNA retention, to restrict the scope of the National DNA Database (NDNAD) and to give added protection to innocent people whose DNA has been retained. Clause 24 of the Bill relates to the functions of the NDNAD Strategy Board, one of which will be to issue guidance on the destruction of DNA profiles which chief officers of police will be required to adhere to.

However, until the Bill receives Royal Assent, and this clause has been brought into force, chief officers of police will continue to consider the removal of DNA, fingerprints and PNC records on a case by case basis under the Exceptional Case Procedure. The Exceptional Case Procedure is set out under Annex 2 of [Retention Guidelines for Nominal Records on the Police National Computer](#) as published by the Association of Chief Police Officers. The Supreme Court recognised that, given that it is presently legislating in relation to these issues, Parliament is – at the moment – the appropriate body to make curative amendments to the current regime, rather than the police service.

In answer to your third query, the Home Secretary and Policing and Criminal Justice Minister have consulted on Peter Neyroud's Review of Police Leadership and Training which sets out a vision of a professional body for policing and the Home Secretary is considering her response. Ministers are looking to establish a new professional body for policing which has responsibility for standard-setting for entry and promotion in the police service, and for specialist police disciplines, and leadership. It will also provide and commission training. The Professional Body would need to be in place by the end of 2012 at the latest.

Neyroud said that ACPO should be the "head and heart" of the professional body. Ministers thought that was too elitist. They want this body to represent the whole of the police workforce, from the copper on the beat, through to the call centre operator answering 999 or 101 calls. Ministers want to get an early understanding of how such a body would relate to a 'Chiefs' Council' and are keen to reduce the proliferation of bodies in the national policing landscape. Ministers plan to update Parliament as soon as they have taken final decisions.

Yours sincerely

S Salimraj