

Our reference: 1007500 & 1007516



Martin McGartland

By email:

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8 April 2019

Dear Mr McGartland

Your request for information

We refer to your emails, received at the IOPC on 11 and 18 March 2019, in which you request information from the IOPC. We have considered your requests under the Freedom of Information Act 2000 (FOIA) and this letter sets out our decision.

Your request of 11 March

I have made a number of requests to IOPC/IPCC for recorded information that you hold on me concerning my cases. Those requests under DPA 2018 (subject access requests) included requests for "... copies of all reasons and decisions and the rationale for those by all case officers and their line managers which relate to this case". I have made many requests for this sort of information and thus far all of that recorded information which would be regarded as my personal information as it relates to me, my case and I was the focus, has continually been suppressed, withheld and covered up. I can only presume the reason behind this is because those decisions and the rationale for them are so fundamentally flawed that IOPC / IPCC and those case officers and their line managers are deliberately suppressing and concealing that information due to embarrassment."

To date, I have never been sent copies of those documents. I requested that information so that it could better help me understand the decisions made by your case officers, their line managers. However, your department (info) and the IOPC/IPCC continue to cover up that information and are breaching as well as failing to comply with the DPA (law).

Under the FOIA I would like you to disclose;

- 1. A copy of your (IOPC/IPCC) case officer manual (including all info relating to this request) which shows how all staff are required to record all their decisions, reasons and rationale for those (their decisions).*
- 2. Copies of all policies and procedures for disclosing case officer, line managers reasons, decisions and rationale which concern case/s of members of the public. And also those which relate to IOPC/IPCC, staff transparency and openness concerning decision making while dealing with the public.*
- 3. Details (including any policy...) of when (and why) case officer, line managers decisions, rationale will not be disclosed to members of public, when requested, and as in this case where that information is requested to help public better understand IOPC/IPCC decisions.*

Your request of 18 March

I made a complaint to Northumbria Police PSD against their former Head (Ms Janice Hutton) more than 10 working days ago. I contacted the IOPC/IPCC about this breach (the delay) of the Statutory Guidance (which states that recording decisions be made within 10 working days).

I was sent the following e-mail in reply by IOPC/IPCC (pasted below fyi);

"Dear Mr McGartland,

Thank you for contacting the Independent Office for Police Conduct (IOPC). We acknowledge receipt of your email dated 15 March 2019, the content of which has been noted. The IOPC reference number is 2019/116177, which you should quote in all future correspondence to us regarding this matter.

I note you have made a complaint against Northumbria Police on 27 February 2019, and you advise you haven't received a recording decision within 10 working days.

Whilst the IOPC Statutory Guidance states that we expect a recording decision to be made within ten working days of receipt of a complaint, we do

allow Professional Standards Departments (PSD) 15 working days to provide a recording decision. This is on the basis that they have 10 working days to make a recording decision, and 5 working days to firstly receive the complaint, and then to convey the recording decision to the complainant.

As such, the IOPC is unable to assist at this time. However, should the PSD not convey their recording decision to you by 20 March 2019, you will have a right of appeal to the IOPC. Please be aware, exercising this right of appeal would not result in the IOPC investigating your complaint. It may however result in the IOPC directing the police force to make a recording decision on your complaint.

*Yours sincerely, James Bromley
Customer Contact Advisor Independent Office for Police Conduct (IOPC)
PO Box 473 Sale M33 0BW"*

All correspondence between myself and Northumbria Police (as with this complaint) is by e - mail only.

Under the FOIA 2000 I would like to know;

- 1. Why, given above, are the police allowed 5 extra working days to make recording decisions - 15 working days in total - when your Statutory Guidance states 10 working days?*
- 2. Will the IOPC/IPCC now be changing their Statutory Guidance (from 10 to 15 working days). If not, why not?*
- 3. If the 15 working days applies to complaint sent to (and from) the police by email. Those which are received by police on day they were sent (when there is no delay as with those sent by post)?*

I have still not been sent a recording decision by Northumbria Police for my Wednesday 27 February 2019 emailed complaint. That was emailed (13/14 working days ago). Does Statutory Guidance not apply to Northumbria Police.

Our decision

We are refusing your requests under section 14(1) of the FOIA. This states:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

The Tribunal has defined 'vexatious' as "*the manifestly unjustified, inappropriate or improper use of a formal procedure*". We have decided that your requests are vexatious when considered in their surrounding context because it then becomes clear that compliance would result in a disproportionate or unjustified level of disruption to the IOPC.

The Tribunal has identified the idea of proportionality as underpinning the policy behind section 14(1):

"There must be an appropriate relationship between such matters as the information sought, the purpose of the request and the time and other resources that would be needed to provide it".

We have considered, therefore, whether your purpose in making these request could justify the resources that would have to be committed to answering them

Our letters to you of 1 February 2017, 16 March 2017, 12 May 2017, 17 May 2017, 30 May 2017, 7 July 2017, 13 December 2017, 18 December 2017 and 30 January 2018 set out our evidence as to the context, frequency and duration of your contact with the IPCC and why this was relevant to section 14(1) of the FOIA. This evidence was accepted by the Information Commissioner in her Decision Notices of 26 September 2017 (FS50683023 and FS50690461), both of which supported the IOPC in refusing your requests as vexatious.

We are relying on the same evidence in relation to these requests after taking into account their subject matter and context as described below.

Your request of 11 March relates to the recording and disclosure (or non-disclosure) of decisions by the IOPC concerning members of the public. You say that you are making this request because the IOPC has refused to provide reasons for its decisions. In your view, this information

"...has continually been suppressed, withheld and covered up... because those decisions and the rationale for them are so fundamentally flawed that IOPC / IPCC and those case officers and their line managers are deliberately suppressing and concealing that information due to embarrassment."

We do not agree with this assertion and would observe that the IOPC has given written reasons for all of its decisions under the Police Reform Act 2002, as it is required to do by the legislation. Therefore, we do not hold information that could support your belief that the IOPC is covering up its decisions on your police complaints.

Attempting to answer this request would involve reading through our procedural documents and extracting information about the recording of decisions and

communications with the public. Our guidance to staff is substantial, not least because our functions under the Police Reform Act 2002 (PRA) are numerous and have changed over time as the legislation has been amended. This means that significant resources would have to be committed to this task when there is little or no prospect that you would be satisfied with our response.

Turning to your email of 18 March, we note that you are making this request in connection with your correspondence with the IOPC about a recent police complaint. You are attempting to continue this correspondence under the FOIA because you do not accept the explanation you have been given, just as you made your request of 10 March because you do not accept our decisions on your complaints.

I conclude that your emails of 10 and 18 March form part of a persistent series of requests under the FOIA and the DPA that began nearly 10 years ago. Against this background, answering your requests would offer no prospect of satisfying you or persuading you to stop making requests to the IOPC; instead, your previous conduct strongly indicates that any response would result in further complaints and correspondence.

The following observations by the Information Commissioner, taken from her Decision Notice FS50683023, apply equally to the requests now under consideration:

42. Having looked at the pattern of the complainant's requests, the Commissioner also considers that any response given by the IPCC would be unlikely to be the end of the matter and would be likely to lead to follow up requests from the complainant. She is of the view that this would extend the life of the complainant's use of the FOIA to address his grievances with the IPCC, and would impose a further consequential burden on the IPCC.

46. The Commissioner considers that the complainant appears to be pursuing grievances about the IPCC's treatment of his complaints, through the FOIA regime and particularly the platform provided by WhatDoTheyKnow. The volume and the tone of many of the requests and accompanying correspondence, suggest that he is using the FOIA regime primarily as a means to harass and disrupt the work of the IPCC, rather than to obtain information that would genuinely be of use to him and to the wider public.

47. The Commissioner considers that the FOIA is not an appropriate mechanism for pursuing grievances. If the complainant has serious concerns about how the IPCC has dealt with his previous complaints he may have those concerns formally examined through the mechanism of judicial review, and he has been advised of this. The Commissioner considers there is no

wider public interest in them being played out in public, under the FOIA regime.

48. The purpose of section 14 of the FOIA is to protect public employees and their authorities from unreasonable demands in their everyday business. In her guidance, the Commissioner recognises that dealing with unreasonable requests can place a strain on public authorities' resources and get in the way of their delivering mainstream services or answering legitimate requests. Furthermore these request can also damage the reputation of the legislation itself.

We have decided, therefore, that your requests engage section 14(1) of the FOIA because your purpose in making them does not justify the resources that would have to be committed to compliance.

Including these two requests, the IPCC has refused nine of your FOIA requests as vexatious. The first of these requests was made by you on 7 January 2017 and resulted in the Information Commissioner's Decision Notice from which we have quoted above.

We will consider complying with your FOIA requests when the information to which they relate can be quickly located and disclosed. It was for this reason that we responded in full to your requests of 17 October 2018 and 14 February 2019 (our references 1007256 and 1007450). Where, however, your requests impose a significant burden on the IOPC and are being made in pursuit of your continuing grievances it is highly likely that we will refuse them under section 14(1).

Please remember to quote reference numbers 1007500 and 1007516 in any future correspondence about this request.

If you are not satisfied with this response you may request an internal review by an independent internal reviewer, 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 and Data Protection Manager
Independent Office for Police Conduct
PO Box 473
Sale M33 0BW

All emails requesting a review should be sent **directly** to:
requestinfo@policeconduct.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 complaint mechanism before complaining to the Information Commissioner.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'Chris McCoy', with a stylized flourish at the end.

Chris McCoy
Operations Manager
Independent Office for Police Conduct (IOPC)