

Our reference: 1008562

Mr Martin McGartland
Sent by email to:
request-680501-
79246cfa@whatdotheyknow.com

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27 August 2020

Dear Mr McGartland

Thank you for your information request received on 29 July 2020. We have considered your request under the Freedom of Information Act 2000 (FOIA) and this letter sets out our response.

You requested the following information:

- “1. Any referrals made to IOPC/IPCC re: (Northumbria) police covered up' sex scandal bust-up as Line of Duty cops quiz ex-chiefs case by;
(a) Staffordshire Police as a result of their review / investigation requested by PCC of Northumbria;
(b) PCC and or of OPCC Northumbria;
(c) Northumbria police.*
- 2. Any investigation/s (including oversight) by IOPC/IPCC concerning said case?*
- 3. Regards 2 above, what is reason / ground/s - if any - for IOPC / IPCC investigation/s (including any oversight)?*
- 4. Regards 3 and 3 above, has the IOPC / IPCC made any contact with the CPS / DPP (including submitting any file/s) concerning said case? If so, (a) for what reason? (b) when, what date/s?”*

Your request refers to a media article relating to named individuals and seeks to establish if the IOPC has received any referrals about, or has had any involvement in the matters reported in the media.

As you may be aware, although the FOIA carries a presumption in favour of releasing information, it contains exemptions that can be applied either to allow public authorities to withhold information, or to allow them to refuse to confirm whether they hold the information at all.

Section 40(5B)(a)(i) of the FOIA permits a public authority to neither confirm nor deny that it holds information about someone other than the requester when this action would contravene one or more the data protection principles under Article 5 of the General Data Protection Regulation (GDPR).

The information you have requested is personal data under the GDPR because it clearly relates to one or more living individuals who could be identified. Confirming or denying the information is held would itself be a disclosure of their personal data as it could reveal whether or not a complaint or recordable conduct matter relating to those individuals had ever been referred to the IOPC.

Such disclosure is allowed only if it complies with the data protection principles. Processing of personal data must also be supported by at least one of the legitimising conditions in article 6 of the GDPR.

In this case it is principle (a) that is relevant, which prescribes that data must be processed fairly and lawfully.

We consider that stating whether any information is held would not be fair or lawful in relation to the individuals concerned. This is because there are no legitimate interests that could justify the invasion of privacy and potential harm or distress that would be likely to result from disclosure of personal information. Consequently we find that disclosure is not supported by any of the lawful bases listed under article 6.

Turning to the fairness aspect of disclosing personal information under the FOIA, it is necessary to recognise that such action is effectively an unlimited disclosure to the world at large without conditions. This could lead to unwarranted intrusion into the privacy of those individuals who can be identified, potentially resulting in damage or distress. It is significant that there is no presumption under the GDPR that openness and transparency should take priority over personal privacy. Consequently we have concluded that disclosure of this personal data even to the extent that we confirm or deny any relevant information is held, would be inherently unfair.

In reaching our decision we have taken into account not only the potential effects of responding to this request but also the importance of maintaining a consistent stance in relation to any similar requests that the IOPC may receive. A failure to provide consistent responses may result in the inadvertent disclosure of information in breach of the data protection principles because a change of stance between requests on a similar theme could itself be taken as indication that relevant information is held.

Taking all of these factors into account we have concluded that your request engages the exemption at section 40(5B)(a)(i) because confirming or denying whether we hold any information relating to your request would be neither lawful nor fair and so would not be in accordance with the data protection principles.

If you have any questions about this request please contact us. Please remember to quote reference number 1008562 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:

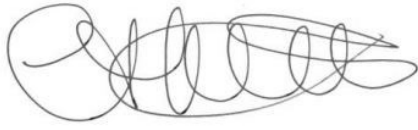
Reviewing Officer
Independent Office for Police Conduct
PO Box 473
Sale M33 0BW

All emails requesting a review should be sent **directly** to: dpo1@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 internal complaint mechanism before complaining to the Information Commissioner.

Yours sincerely

A handwritten signature in black ink, consisting of a series of loops and a final horizontal stroke.

Gemma Thomas
Data Protection Officer
Independent Office for Police Conduct