

FOI Disclosures February 2019

Index

This month we have responded to questions relating to the following topics:

- [Police Corruption Case Referrals](#)
- [Referral on behalf of Crystal Palace Supporters Trust](#)
- [IOPC Staff Dismissals](#)
- [Archive Assistant Job Description](#)
- [Complaints Regarding Stop and Search Report](#)
- [Irregularity in Evidence/Perjury Complaints](#)
- [Data relating to Operation Rome](#)
- [Volunteer Police Cadet Queries](#)
- [GMP Scoping Exercise](#)
- [IOPC Vulnerable Child Report](#)

If you require a full copy of any of the embedded attachments, please contact Requestinfo@policeconduct.gov.uk quoting the reference number from the relevant response.

<u>Ref</u> 1007398 Back to top	<u>Police Corruption Case Referrals</u>
<u>Request</u>	<ol style="list-style-type: none">1. <i>The amount of police corruption cases referred to the IOPC in 2017/18.</i>2. <i>The amount of police officers that were convicted in 2017/18.</i>
<u>Response</u>	<p><u>The amount of police corruption cases referred to the IOPC in 2017/18:</u></p> <p>The IOPC records factors on cases so that it can monitor trends and themes in cases we deal with. A factor is a theme that might apply in the given circumstances of a case.</p> <p>The case factor relevant to your request is corruption/perjury. This factor is recorded on any complaint or allegation relating to corruption. This case factor is split into the following sub factors:</p> <ul style="list-style-type: none">• Abuse of powers for sexual gain• Unauthorised disclosure / misuse of police systems• Abuse of authority (non-sexual)• Falsification of evidence / perjury• Theft / fraud / drug supply• Corruption – other

For more information on case factors, please find attached a copy of our case factor guidance.

Between 1 April 2017 and 31 March 2018, we received 655 referrals with a case factor of corruption/perjury or one of its sub-factors.

Since case factors are manually selected by operational staff to help identify the nature of the circumstances of a case they should not be relied on to provide definitive data as application of case factors is reliant on individual discretion. A factor selected on a case involving a complaint may be relevant to the incident to which the complaint relates but may not be what the complaint is about. Therefore the data presented here should only be used for illustrative purposes only.

The complete breakdown of referrals received by sub-factor is below:

Case Factor	Number of cases with factor selected
Corruption/perjury	655
Corruption/perjury: Abuse of authority (non-sexual)	103
Corruption/ perjury: Abuse of powers for sexual gains	170
Corruption/ perjury: Corruption - other	125
Corruption/ perjury: Falsification of evidence / perjury	107
Corruption/ perjury: Theft / fraud / drug supply	107
Corruption/ perjury: Unauthorised disclosure / misuse of police systems	71

A referral can have more than one factor applied to it, this is why the sub factor total is more than the total number of referrals with a corruption/perjury factor.

The amount of police officers that were convicted in 2017/18:

A significant period of time can elapse between the completion of an IOPC investigation (known as Final Report Approval) and the outcome of misconduct and/or criminal proceedings, therefore the information below is based on the date of verdict at a criminal trial.

Between 1 April 2017 and 31 March 2018, two police officers were convicted of a criminal offence as a result of an IOPC independent investigation. Neither of these was for a corruption/perjury offence. There may be other cases that have resulted in criminal trial, but where the police conducted the investigation. For this information you would need to ask the Home Office.

Ref
1007334
[Back to top](#)

Referral on behalf of Crystal Palace Supporters Trust

Request

1. *Copies of all documents sent by Sussex Police (SP) on or about 17 April 2018, whether in printed or electronic form or otherwise, to the Independent Office for Police Conduct (IOPC) in connection with the referral by SP of the complaint*

	<p><i>made by Irvine Thanvi Natas Solicitors (ITN) on behalf of the Crystal Palace Supporters Trust (CPST.) These documents should include, but not be limited to, details of what SP were asking IOPC to investigate and why SP thought referral to IOPC was appropriate;</i></p> <ol style="list-style-type: none"> <i>2. Copies of all subsequent correspondence between SP and IOPC concerning this complaint and this reference, including, but not limited to, any reply from IOPC returning the complaint to SP because of IOPC’s inability to deal with the complaint;</i> <i>3. Copies of all documents sent by SP on or about 7 July 2018, whether in printed or electronic form or otherwise, to IOPC in connection with the self-referral of matters relating to the match between BHAFC and CPFC on 28 November 2017 and to communications following that match or any other relevant matters. These documents should include, but not be limited to, details of what SP were asking IOPC to investigate and why they thought referral to IOPC was appropriate;</i> <i>4. Copies of all subsequent correspondence between SP and IOPC concerning this reference, including, but not limited to, any reply from IOPC returning the complaint to SP because of IOPC’s decision not to deal with the complaint;</i> <i>5. Copies of any other referrals or correspondence between SP and IOPC concerning matters arising from the above match</i>
<p><u>Response</u></p>	<p>We have now concluded our considerations and have decided to disclose a redacted version of the information. This is included as an attachment to our response. Certain information within the referrals and associated correspondence has been redacted by virtue of exemptions under section 31(1)(g), with reference to section 31(2)(b), and section 40(2) of the FOIA.</p> <div style="text-align: center;">  <p>R - W - 1007334.pdf</p> </div> <p>Our specific reasons for withholding the redacted information are set out below.</p> <p><u>Section 31 – Law enforcement:</u></p> <p>Section 31(1)(g) exempts information where disclosure would or would be likely to prejudice “(a)the exercise by any public authority of its functions for any of the purposes specified in subsection (2).</p>

In this case the relevant specified purpose listed at subsection (2) is (2)(b) *“the purpose of ascertaining whether any person is responsible for any conduct which is improper”*.

The public authority in this case is Sussex Police who are the appropriate authority with the duty to undertake a conduct investigation, following our decision to return certain allegations within the referral for local investigation.

Section 31 is a qualified prejudice based exemption, meaning that we must consider the public interest as well as identify the prejudice likely to occur in the event of disclosure.

We consider that certain information contained within this material relates to preliminary enquiries undertaken by the police force in relation to the allegations. Disclosing information that would reveal police methods and information sources in this regard would be likely to prejudice this and, potentially, future investigations.

Turning to the public interest argument, we acknowledge that there is a legitimate public interest in this information, particularly given the media interest and reports about the case. As such, disclosure could serve to inspire public confidence around the police complaints process and in turn this could satisfy the public interest in openness and in accountability for decision making and the use of public funds.

However we consider that it would not be in the public interest to disclose information where there is a risk that future conduct and law enforcement investigations could be prejudiced and result in harm to the due process and to the rights and freedoms of individuals involved.

Maintaining this exemption preserves the safe space that can be critical to the investigation process. Accordingly, confidentiality in these circumstances serves to promote effective investigation. In general these factors mean that preserving confidentiality should normally be maintained in respect of the investigation process and the evidence it produces.

Another relevant consideration is that the material that we hold is limited to information contained in the initial referrals and our assessment regarding the mode of investigation. We did not conduct investigations into the matters referred and therefore this material cannot be described as complete or conclusive in relation to the matters raised. There is a risk that the release of information in isolation could be misleading as it would not enable the public to form a fair or balanced view about the matter and would not represent any fully considered conclusions.

Taking all of these factors into account we have concluded that the public interest in disclosure is outweighed by the public interest in

	<p>maintaining this exemption for certain material in the scope of your request.</p> <p><u>Section 40 – Personal data:</u></p> <p>Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulations (GDPR). In this case we need to ensure that any personal data is processed lawfully, fairly and in a transparent manner in relation to the individuals concerned. Certain individuals can be identified from this material including members of the public, police officers and IOPC staff.</p> <p>In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.</p> <p>We have taken into account information that is already in the public domain. In particular we note that the allegations made on behalf of the Crystal Palace Football Supporters’ Club is freely available online and has been the subject of widespread media. However we have found it necessary to redact some personal data from these referrals because in our view none of the conditions under article 6 of the GDPR would support its disclosure. Any legitimate interest in disclosure of certain personal data at this time could not justify the invasion of privacy and potential distress that would be likely to result.</p> <p>Furthermore we consider that disclosure of this personal data would be outside of the reasonable expectations of these individuals and would consequently be unfair. This would result in a breach the data protection principles meaning that the exemption at section 40(2) of the FOIA applies to the personal data we have redacted.</p>
<p><u>Ref</u> 1007389 Back to top</p>	<p><u>IOPC Staff Dismissals</u></p>
<p><u>Request</u></p>	<ol style="list-style-type: none"> 1. <i>How many IOPC/IPCC staff members have been dismissed per year since its creation in 2004 (i.e a separate number for each year).</i> 2. <i>What were the nature of the allegations which resulted in each of the dismissals.</i> 3. <i>If 2 can’t be provided, what were the breach’s of employment contract that led to each of the dismissals.”</i>

Response

We understand your request to relate to disciplinary dismissals and can provide the following information in response to your request:

Year	Number of staff dismissed	Nature of allegations
2007	4	Gross misconduct – Breach of contract, Failure to follow management instruction, Wilful failure to undertake work, Failure to provide references.
2008	5	Gross misconduct – Breach of Code of Conduct
2009	2	Gross misconduct – Breach of code of conduct
2010	0	
2011	2	Gross misconduct – serious wilful refusal or negligence in carrying out duties of the post
2012	0	
2013	0	
2014	5	Gross misconduct – Code of Conduct, Behaviour, Failure to carry out work
2015	1	Gross misconduct – breach of trust and confidence
2016	0	
2017	1	Gross misconduct, breach of the code of conduct bringing the organisation into disrepute
2018	1	Gross misconduct, breach of code of conduct , behaviour

We are unable to provide this information for the years prior to 2007 because the data was held in a different system at this time and we are unable to identify and retrieve it by means of automated searches. This means that locating and extracting information falling within the scope of your request would involve retrieving archived paper files from our storage facility to undertake manual scrutiny of the information contained within.

Section 12 of the FOIA permits a public authority to refuse to comply with a request where certain activities would involve breaching the 'cost limit'. In the case of the IOPC, the cost limit is set at £450 or 18 hours work at £25 per hour.

We consider that the time taken to retrieve each file, read the relevant contents and extract and compile the relevant information would exceed the 18 hour limit by a considerable margin. We have decided that we are therefore not obliged to provide this data prior to 2007.

Ref
1007412
[Back to top](#)

Archive Assistant Job Description**Request**

A copy of the job description and person specification for the Archive Assistant position within the Records Management Team. (not the Hillsborough Archive Assistant position).

Response

Further to your recent request for information, please find attached a copy of the job description and person specification you require.



JD Archive Assistant May 2018.pdf

Ref 1007410 Back to top	<u>Complaints Regarding Stop and Search Report</u>
<u>Request</u>	<p><i>IOPC full report relating to the investigation summary published on the IOPC web site on 3 December 2018 under the heading ‘Complaints regarding stop and search – Kent Police May 2016’.</i></p>
<u>Response</u>	<p>We can confirm that we hold information relating to your request but have decided that we will not disclose it to you because it engages the exemptions under section 30(1)(a)(i) and section 40(2) of the FOIA.</p> <p>In the case of section 30, we are refusing your request after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure. Section 40 is an absolute exemption meaning that there is no need to consider the balance of the public interest.</p> <p>Our specific reasons for withholding the information are set out below.</p> <p><u>Section 30 – investigations and proceedings conducted by public authorities:</u></p> <p>Section 30(1)(a)(i) exempts material <i>“held by a public authority for the purposes of any investigation which the public authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence”</i>.</p> <p>The IOPC carried out its own investigation into this case in line with its functions under the Police Reform Act 2002. These include considering whether the investigation report indicates that a criminal offence may have been committed, and referring the report to the Director of Public Prosecutions (DPP) when we conclude that it does. As the IOPC is required to make these decisions, the information we hold about this investigation falls within the class of information covered by section 30(1)(a)(i).</p> <p>Information can be withheld under section 30 only when the public interest in maintaining the exemption outweighs the public interest in disclosure.</p> <p>We accept that there is a legitimate and important public interest in publishing information about an investigation into the conduct of police officers, as this serves to inspire public confidence around the police complaints process. In turn this would serve the public interest</p>

in openness and in accountability for decision making and the use of public funds.

The release of the detailed evidence contained in the investigation report would leave the public better informed about the nature and context of this incident, providing reassurance by demonstrating that this was thoroughly and fairly investigated.

However the exemption under section 30 is concerned with preserving the safe space that can be critical to the investigation and prosecution process. As confirmed in guidance from the Information Commissioner's Office, section 30 is designed to protect the independence of the judicial and prosecution processes by preserving the criminal court as the sole forum for determining guilt.

There is a considerable public interest in ensuring that investigations, proceedings and prosecutions are conducted effectively. This requires the avoidance of prejudice either to particular investigations or proceedings, or to the investigatory and prosecution process more generally. In addition, the protection of individuals who co-operate with the police ensures that people are not deterred from making statements or reports by the fear that they may be publicised. In general these factors mean that a degree of confidentiality should normally be maintained in respect of the investigation process and the evidence it produces.

As you are aware, a summary of this investigation has been published on our web site in line with our [publication policy](#). We consider this information to be a proportionate response to the public interest in transparency and accountability, taking into account the competing public interest in preserving the confidentiality of investigations and the persons to whom they relate, as well as the strong likelihood that a redacted version of the full report would not leave the public any better informed about this case.

It is also relevant to the balance of the public interest that there has been no suggestion that the IOPC investigation is flawed. In our view, the public interest in disclosure of the full report is significantly reduced by the lack of any such concerns together with the information we have published on our web site.

Taking all of these factors into account we conclude that the public interest in maintaining the exemption under section 30 outweighs the public interest in disclosure of this information.

Section 40 – Personal information:

Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulations (GDPR). In this case we have considered Article 5(1), which requires that any personal data is processed lawfully, fairly and in a transparent manner in relation to the individuals concerned.

A number of individuals can be identified from the report. It may be helpful to explain that personal data does not only constitute names, addresses and dates of birth but encompasses any data that may result in the identification of an individual.

In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.

Some of the information is criminal offence data as defined in section 11(2) of the Data Protection Act 2018, meaning that it must be processed in accordance with the conditions imposed by section 10(5) of the DPA. We do not consider that compliance would meet any of the conditions in Parts 1, 2 or 3 of Schedule 1. In particular, neither Part 3 paragraph 29 (consent from the data subject) nor Part 3 paragraph 32 (data made manifestly public by the data subject) would be satisfied by compliance.

In our view none of the conditions under article 6 of the GDPR would support release of the personal data contained within this report and any legitimate interest in disclosure at this time could not justify the invasion of privacy and potential distress that would be likely to result. This takes into account the investigative context of this personal data and the absence of any of the factors that could justify any subject of the investigation being named, as identified in the published IOPC '*Policy on the naming of police officers and police staff subject to IOPC investigation, appeal assessment or criminal proceedings*'.

	<p>Therefore, we do not agree with your view that the subject officer should be named.</p> <p>This means that disclosure would be neither fair nor lawful on the individuals concerned, with the result that their personal data is exempt under section 40(2) of the FOIA.</p>
<p>Ref 1007451 Back to top</p>	<p><u>Irregularity in Evidence/Perjury Complaints</u></p>
<p><u>Request</u></p>	<p><i>Conducting a search of all complaints, classed under Type G (irregularity in evidence / perjury), made between 1 January 2011 and 1 January 2019;</i></p> <ol style="list-style-type: none"> <i>1. How many complaints were made?</i> <i>2. How many were sent for a charging decision?</i> <i>3. How many resulted in criminal charges?</i>
<p><u>Response</u></p>	<p>Having considered your request I can confirm that the IOPC holds the information required for point 1. We collect information about complaints and appeals against police forces and publish these statistics in quarterly police complaints bulletins and annual police complaints publications.</p> <p>The IOPC does not hold the information requested for points 2 and 3, as this data is not included in the annual statistical information we receive from the police. The IOPC investigate only the most serious matters, which account for a very small proportion of all the complaints considered each year. Please see the published stats for 'number of allegations finalised and how they were finalised' (as signposted in the below table), from this you will see that very few allegations/complaints result in an investigation, and only investigated cases could result in charges.</p> <p>You can locate the information you have requested as below.</p> <p>The most recent annual police complaints statistics and previous editions are accessible via this link: http://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics</p> <p>As some information is recorded on different tables in different years, please see the table below for where to find the information you have requested:</p>

Information (The data in these tables is separated by police force)	Police Complaints Statistics Report Year							
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Number of complaint cases recorded	Table 4			Table 3				
Number of allegations recorded by type	Table 7			Table 6				
Number of allegations finalised and how they were finalised	Table 8	Table 9		Table 8				

Between 1 April 2018 and 31 December 2019, 534 allegations of 'Irregularity in relation to evidence/perjury' were recorded by police forces.

As the information is available as above, we do not propose to repeat it here. Section 21 exempts a public authority from the obligation of disclosing information where that the information is reasonably accessible to the applicant by other means. Section 21 is an absolute exemption, which means that no consideration of the public interest is required.

If you do have difficulty in accessing the information if you have any queries about this letter please contact me. Please remember to quote the reference number above in any future communications about this request.

Notes:

Complaints received:

Only a proportion of complaints against the police are received by the IOPC, most complaints are made directly to the forces themselves. When the IOPC does receive a complaint against the police, our role is to forward the complaint to the relevant police force. Additionally, we do not view complaints made via the IOPC website, these are forwarded to the force automatically.

Also, a complaint case can have more than one allegation attached to it. From Q3 2012/13, the number of allegations recorded includes allegation categories that previously did not fall within the police complaints system.

Complaints resolved:

A complaint case may be made up of one or more allegations, allegations within a single complaint case may be resolved in a different way. For this

	<p>reason, the IOPC records how individual allegations were finalised as opposed to the complaint case as a whole. It is for the force to decide how an allegation is dealt with including the decision to locally resolve an allegation. The IOPC does not decide how an allegation is resolved unless it is referred to us.</p> <p><u>Complaints and appeals rejected:</u></p> <p>If the force choose not to record a complaint, we would not be aware of this unless the complainant made a non-recording appeal to the IOPC.</p>
<p><u>Ref</u> 1007417 Back to top</p>	<p><u>Data relating to Operation Rome</u></p>
<p><u>Request</u></p>	<p><i>All data held by the IOPC in respect of Operation Rome, later renamed Operation Hyson.</i></p>
<p><u>Response</u></p>	<p>We can confirm that we hold information relating to your request in the form of an allegation by a member of the public. We have decided that you are not entitled to this information because it engages the exemption under section 40(2) of the FOIA.</p> <p>Section 40 is an absolute exemption meaning that there is no need to consider the balance of the public interest.</p> <p>Our specific reasons for withholding the information are below.</p> <p>Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulations (GDPR). In this case we have considered Article 5(1)(a), which requires that any personal data is processed lawfully, fairly and in a transparent manner in relation to the individuals concerned.</p> <p>The entirety of this data identifies and relates to the member of the public who made the complaint and the subject of the complaint. It may be helpful to explain that personal data does not only constitute names, addresses and dates of birth but encompasses any data that relates to and may result in the identification of an individual.</p> <p>In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.</p>

	<p>Our assessment is that none of the conditions under article 6 of the GDPR would support release of this data and the nature of this information is such that its disclosure would not serve any legitimate interest that could justify the invasion of privacy and potential distress that would be likely to result.</p> <p>Taking all of these factors into account we conclude that disclosure would be neither fair nor lawful for the individuals concerned, with the result that their personal data is exempt under section 40(2) of the FOIA.</p> <p>The IOPC does not hold any other information relating to the subject matter of your request.</p>
<p>Ref 1007421 Back to top</p>	<p style="text-align: center;"><u>Volunteer Police Cadet Queries</u></p>
<p><u>Request</u></p>	<ol style="list-style-type: none"> 1. <i>Internal complaints policies/procedures for the Volunteer Police Cadets (if a Cadet raises a complaint against a fellow Cadet)</i> 2. <i>Safeguarding policies/procedures to protect the welfare of Volunteer Police Cadets.</i>
<p><u>Response</u></p>	<p>The IOPC does not hold this information because it does not have any functions in relation to Volunteer Police Cadets. It is likely that any such policies would be produced by the relevant police force or by the National Police Chiefs' Council. We recommend that you make a request to these public authorities.</p>
<p>Ref 1007422 Back to top</p>	<p style="text-align: center;"><u>GMP Scoping Exercise</u></p>
<p><u>Request</u></p>	<p><i>On 21st January the below article appeared in the regional press:</i></p> <p>https://www.manchestereveningnews.co.uk/news/greater-manchester-news/paul-massey-anti-corruption-probe-15697852?utm_source=twitter.com&utm_medium=social&utm_campaign=sharebar</p> <p><i>It is apparent from that article, and what the IOPC state within it, that you hold information relating to this 'scoping exercise' undertaken by Greater Manchester Police (GMP). Please disclose the following, by way of the Act.</i></p> <ol style="list-style-type: none"> 1. <i>Email communications between IOPC and GMP in which the subject is this scoping exercise.</i> 2. <i>The GMP findings that, it is said, they shared with the IOPC.</i> 3. <i>Email communications between the IOPC and the Manchester</i>

	<i>Evening News concerning the above article.</i>
<u>Response</u>	<p>Your request is in three parts and our response is as follows.</p> <p style="text-align: center;"><u>1. Email communications between IOPC and GMP in which the subject is this scoping exercise:</u></p> <p>Included with this letter is a document consisting of the emails between IOPC and GMP. We have decided that the redacted information engages the exemptions under section 40 and section 31 of the FOIA.</p> <p>One of these emails included as an attachment an executive summary of the Review of corruption allegations relating to Operation Holly. We are refusing this summary report under section 31 and section 40.</p> <p>We are refusing information under section 31 after deciding that the public interest in maintaining the exemption outweighs the public interest in disclosure. Section 40 is an ‘absolute’ exemption meaning that there is no requirement to consider the balance of the public interest before deciding that the information can be refused.</p> <p>Our reasons for refusal are as follows.</p> <p>Section 31(1)(a) and (b) – law enforcement</p> <p>Section 31(1)(a) applies when disclosure would or would be likely to prejudice the prevention or detection of crime. Information is exempt under section 31(1)(b) when disclosure would or would be likely to prejudice the apprehension or prosecution of offenders.</p> <p>Guidance from the Information Commissioner’s Office (ICO) confirms that both of these provisions cover information on general methods and procedures adopted by law enforcement agencies in the investigation of crime, as well as information relating to specific crimes and investigations. In this instance it is the risk of harm to police operations, whether prospective or on-going, that must be considered. This report consists of information about police anti-corruption measures that would, if disclosed into the public domain, be likely to undermine the effectiveness of these and other police operations to the detriment of the prevention or detection of crime and the apprehension or prosecution of offenders. In the particular circumstances of Operation Holly, disclosure could expose covert sources of information with the result that these and other sources could be placed under threat of harm and intelligence gathering undermined.</p>

We conclude, therefore, that the exemptions under sections 31(1)(a) and 31(1)(b) are engaged by the executive summary and by a small amount of information contained in the emails between GMP and the IOPC.

The public interest in release:

The release of the executive summary would be likely to assist the public in understanding, the nature of the allegations considered by the GMP Anti-Corruption Unit (ACU) and the scope of their review. This information should help the public to assess whether the allegations were treated with sufficient seriousness by the ACU and the IOPC.

All of this would, in turn, serve the general public interest in openness and in accountability for decision making and the expenditure of public funds.

The public interest in refusal of the information:

There is a strong public interest in avoiding the likelihood of prejudice to the prevention or detection of crime we have identified above.

Balance of the public interest under section 31(1)(a) and (b):

There is an important public interest in the disclosure of information indicating whether or not allegations of police corruption have been dealt with appropriately. In the circumstances of Operation Holly, however, there is a very serious and pressing public interest in protecting the confidentiality of information that would be likely to undermine the detection and prosecution of serious crime if it was released. It is also relevant that the IOPC assessment of the GMP review was not based upon the executive summary.

We conclude, therefore, that the public interest factors in favour of maintaining these exemptions outweigh the public interest in disclosure.
Section 40 – Personal information

Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulations (GDPR). In this case we have considered Article 5(1), which requires that any personal data is processed lawfully, fairly and in a transparent manner in relation to the individuals concerned.

A number of individuals can be identified from the emails and the executive summary. It may be helpful to explain that personal data does not only constitute names, addresses and dates of birth but encompasses any data that may result in the identification of an individual.

In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.

Some of the information is 'criminal offence data' as defined in section 11(2) of the Data Protection Act 2018, meaning that it must be processed in accordance with the conditions imposed by section 10(5) of the DPA. The term 'criminal offence data' includes information about criminal allegations, proceedings or convictions. We do not consider that compliance would meet any of the conditions in Parts 1, 2 or 3 of Schedule.

1. In particular, neither Part 3 paragraph 29 (consent from the data subject), nor Part 3 paragraph 32 (data made manifestly public by the data subject) would be satisfied by compliance.

In our view none of the conditions under article 6 of the GDPR would support release of the personal data we are withholding and any legitimate interest in disclosure could not justify the invasion of privacy and potential distress that would be likely to result. This takes into account the investigative context of this personal data and the absence of any factor that could justify the identification of any person who is the subject of an allegation of wrong doing.

This means that disclosure would be neither fair nor lawful on the individuals concerned, with the result that their personal data is exempt under section 40(2) of the FOIA.

2. The GMP findings that, it is said, they shared with the IOPC:

This information is not held by the IOPC because it was returned to GMP.

	<p><u>3. Email communications between the IOPC and the Manchester Evening News concerning the above article:</u></p> <p>Included with this letter is a document consisting of these emails. Information has been redacted under section 40(2) of the FOIA. Our reasons for making these redactions are similar to our reason for redacting the names and contact details of some of the correspondents in the emails between the IOPC and GMP. In our view the disclosure of this information would not be necessary to serve any legitimate interest that could justify its disclosure to the world at large. Accordingly we find that section 40(2) of the FOIA is engaged because disclosure is not permitted by the data protection principles.</p> <p style="text-align: center;"> 1007422 - Neil Wilby FOI response.pdf</p> <p style="text-align: center;"> R - 1007422 - MEN-IOPC emails re part 3 of request.pdf</p> <p style="text-align: center;"> R - 1007422 Part 1 - emails IOPC-GMP.pdf</p>
<p><u>Ref</u> 1007436</p>	<p>IOPC Vulnerable Child Report</p>
<p><u>Request</u></p>	<p><i>A copy of the full IOPC report relating to vulnerable Child H and Sussex Police.</i></p>
<p><u>Response</u></p>	<p>We can confirm that we hold this report but are refusing your request. We have decided that the information engages the exemptions under section 30 and section 40 of the FOIA and are refusing the report under section 30 after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure. Section 40 is an absolute exemption meaning that there is no requirement to consider the balance of the public interest before concluding that the information can be refused.</p> <p>Our reasons for refusal are as follows.</p> <p><u>Section 30 – Investigations and proceedings conducted by public authorities:</u></p> <p>Section 30(1)(a)(i) exempts material “held by a public authority for the purposes of any investigation which the public authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence”.</p>

The IPCC (now the IOPC) carried out its own investigation into this matter in line with its functions under the Police Reform Act 2002. These include considering whether the investigation report indicates that a criminal offence may have been committed, and referring the report to the Director of Public Prosecutions (DPP) when it does. As the IPCC was required to make these decisions, the information we hold about this investigation falls within the class of information covered by section 30(1)(a)(i).

Section 30 is a 'qualified' exemption subject to a public interest test, meaning that the information can be withheld only if the public interest in maintaining the exemption outweighs the public interest in disclosure.

Our assessment of the balance of the public interest in regard to the report is as follows.

The public interest in release:

There is a legitimate and important public interest in publishing information about an investigation into the treatment of a child in custody, especially when the child has a neurological disability. As confirmed by the information published by the IOPC on its web site and in a separate statement in 2016, the investigation identified a number of failings in the care and treatment of Child H during the time that she was detained by police. The public interest in disclosure is strengthened by these concerns, as the public would reasonably expect to be able to decide whether the matter has been properly investigated and whether appropriate measures have been taken to minimise the likelihood of these failings being repeated.

In turn, this would serve the public interest in openness and in accountability for decision making and the use of public funds.

The public interest in refusal of the information:

As confirmed in guidance from the Information Commissioner's Office, section 30 is designed to protect the independence of the judicial and prosecution processes by preserving the criminal court as the sole forum for determining guilt.

There is considerable public interest in ensuring that investigations, proceedings and prosecutions are conducted effectively. This requires the avoidance of prejudice to law enforcement, protection of witnesses and a need to maintain the independence of the judicial and prosecution processes by preserving the criminal court as the sole forum for

determining guilt. Maintaining this exemption preserves the safe space that can be critical to the investigation and prosecution process.

These considerations persist even after the conclusion of an investigation or prosecution so as to take into account the interests of justice and fairness that the criminal process is designed to uphold. This means that there may be good reasons to preserve the confidentiality of at least some of the details of a criminal case, even if they have been publicised during a trial, and that the public interest in the non-disclosure of evidence gathered by a completed investigation is very likely to increase with the passage of time.

It is also necessary to consider the potential impact of further publicity on the well-being of persons involved in an investigation, especially where those persons are young and vulnerable.

Balance of the public interest under section 30(1)(a)(i):

We accept that there is a significant public interest in receiving a detailed account of this investigation and its outcomes, not least because the public would wish to be reassured that the investigation was rigorous and the issues of concern have been properly addressed.

As you are aware, the IOPC web site includes an account of each of the four recommendations we made as a result of our findings, together with the response by Sussex Police. In addition to this information, the IPCC published a detailed statement about the investigation in June 2016. This statement is no longer available on our web site but is accessible here on the web site of The National Archives.

Our concerns about the disclosure of the full report are identified above in relation to section 30 and below in regard to the need to protect the privacy of Child H and her family. As a result of these concerns, the report would have to be heavily redacted before it could be released to the public, meaning that it would be difficult to read and much less informative than the information we have already released. By summarising the investigation and its outcomes, we consider that the published information goes some considerable way towards meeting the public interest in accounting for this case, whilst recognising the importance of preserving an appropriate level of confidentiality for criminal investigations, especially where they relate to vulnerable persons.

Taking all of these factors into account we conclude that the public interest in disclosure of the information we are refusing does not equal or outweigh the public interest in maintaining the exemption. Accordingly, we are refusing this information in reference to section 30(1)(a)(i).

Section 40 – Personal information:

Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulations (GDPR).

The report contains information that identifies and relates to police officers and staff, Child H, her family, and other members of the public. This means that the report contains ‘personal data’ that must be processed in accordance with the data protection principles. In this case we have considered whether disclosure is allowed by Article 5(1)(a) of the GDPR, which requires that personal data be processed lawfully, fairly and in a transparent manner in relation to the individual concerned

In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.

Some of the information in the report is criminal offence data as defined in section 11(2) of the Data Protection Act 2018, meaning that it must be processed in accordance with the conditions imposed by section 10(5) of the DPA. In the circumstances of this case we do not consider that compliance would meet any of the conditions in Parts 1, 2 or 3 of Schedule.

1. In particular, neither Part 3 paragraph 29 (consent from the data subject) nor Part 3 paragraph 32 (data made manifestly public by the data subject) would be satisfied by compliance.

Data relating to the health of Child H is a type of ‘special category data’ which cannot be disclosed unless one or more of the conditions for lawful processing under Article 9 of the GDPR would be satisfied. The Information Commissioner’s Office confirms that the only Article 9 conditions that could be relevant under the FOIA are conditions (a) (consent from the data

subject), or (e) (information manifestly made public by the data subject), neither of which apply here.

In our view none of the conditions under article 6 of the GDPR would support release of the personal data contained within this report and any legitimate interest in disclosure at this time could not justify the invasion of privacy and potential distress that would be likely to result. This takes into account the investigative context of this personal data, its sensitivity for Child H and her family and the absence of any of the factors that could justify any subject of the investigation being named, as identified in the published IOPC 'Policy on the naming of police officers and police staff subject to IOPC investigation, appeal assessment or criminal proceedings' (available via this page on our web site).

Accordingly, we have decided that compliance with your request would not be in accordance with Article 5(1)(a) of the GDPR, with the result that the exemption at section 40(2) of the FOIA applies to this information.