

FOI Disclosures October 2018

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

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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> 1007218 <u>Back to top</u>	<u>Investigation statistics</u>
<u>Request</u>	<p><i>The below questions relate to the IOPC in its current form i.e. since its launch in January 2018. The questions follow on from one another e.g. 'in relation to these cases' is a reference to the scenario described above.</i></p> <ol style="list-style-type: none"> <i>1. How many investigations is the IOPC currently undertaking?</i> <i>2. Of these, how many were inherited from the IPCC, and how many have been opened since the organisation transitioned to the IOPC?</i> <i>3. How many investigations have been determined - i.e. concluded - by the IOPC (whether initiated by the IPCC or not)?</i> <i>4. Of those investigations that have been determined by the IOPC (whether initiated by the IPCC or not), in respect of how many did you recommend disciplinary action by the police force concerned?</i> <i>5. In relation to these cases, on how many occasions did the police force agree - that is, take the action recommended by the IOPC?</i> <i>6. On how many occasions have the relevant police force disagreed with the IOPC's recommendations?</i> <i>7. In respect of these cases, how many times has the IOPC directed the police to do as it recommended?</i>
<u>Response</u>	<p>As of 12 September 2018, there were 582 active independent investigations being carried out by the IOPC. Of these 183 were started before 8 January 2018, when the IOPC was formed.</p> <p>Between 8 January and 12 September 2018, the IOPC completed 440 independent investigations.</p> <p>Information relating to the outcomes of our completed investigations is recorded manually by operational staff on an IOPC database, known as</p>

	<p>the Outcomes Tracker. We are aware of a number of issues surrounding the completeness of data recorded on this tracker, therefore the data provided is the most recent available and is subject to change. As such, it should not be considered definitive and should be used for illustrative purposes only. It should also be noted that in more recent cases we may not hold information because we are still awaiting the appropriate authority's (AA) determination on the IOPC's opinion about what should happen to those involved in the incident.</p> <p>It is possible for more than one officer to be under investigation, therefore we record outcomes information against the individuals subject of the investigation, not against the investigation.</p> <p>Of the 440 independent investigations completed since 8 January 2018, the IOPC holds outcomes information in the Outcomes Tracker for 310 investigations, relating to 368 individuals.</p> <p>Following the conclusion of an IOPC independent investigation, the AA provides its view about what should happen. If we disagree with the AA, we have the power to recommend that it takes appropriate action, such as holding a misconduct meeting or hearing. Ultimately, we can direct the AA to undertake proceedings.</p> <p>Further information about the action that an appropriate authority should take once an investigation report has been received can be found in Section 11 of the IOPC's Statutory Guidance on the IOPC website www.policeconduct.gov.uk/complaints-and-appeals/statutory-guidance</p> <p>Of the 368 individuals subject of an IOPC investigation, the investigation found that 27 had a case to answer for misconduct or gross misconduct. Of these, the relevant AA agreed with the IOPC's opinion for 16, disagreed with ten, and the IOPC awaits the AA's response in relation to one subject.</p> <p>Of the 10 individuals where the relevant AA disagreed with the IOPC findings, the IOPC recommended disciplinary action for three individuals. As at the 12 September 2018, there is no record that the IOPC had directed disciplinary action for any of these individuals.</p>
<p><u>Ref</u> <u>1007225</u> Back to top</p>	<p><u>Complaints made against Essex Police that were submitted out of time frame</u></p>
<p><u>Request</u></p>	<p><i>I would like to know the following going back 3 years against Essex Police. This FOI relates to complaints made against Essex police late (after the 12-month timescale)</i></p> <ol style="list-style-type: none"> <i>1. How many complaints against the police have been upheld that have been submitted 12 months (late) after the incident date.</i> <i>2. How many complaints against the police have NOT been upheld that have been submitted 12 months (late) after the incident date.</i>

	<p>3. Please list the category of complaints made i.e. failure to investigate child sexual abuse, failure to investigate burglary and break down into two categories; upheld / not upheld.</p> <p>4. What were the main reasons given by service users for complaints submitted late that were acceptable and as such accepted by: i) The force itself ii) IPCC / IOPC</p> <p>5. How many complaints have IOPC overridden where police have initially refused to uphold and what were the category types?</p> <p>6. Can the IOPC list any complaints submitted that were allowed within “exceptional circumstances” involved and what categories were these. i.e. Ill Health, ongoing matters, intimidation, PTSD etc.</p>
<p><u>Response</u></p>	<p>Having considered your request I can confirm that some of the information you have requested is held by the IOPC.</p> <p><u>Essex Police complaints data</u> All complaints are recorded by the police force concerned in the first instance. Complainants may send their complaint directly to the IOPC but our role is limited to passing the complaint on to the relevant police force so they can consider whether it should be formally recorded. The IOPC collects police complaints data from police forces and publishes an annual report - ‘Police Complaints: Statistics for England and Wales’. This information includes the total number of complaints recorded by each police force and a breakdown of how these complaints have been handled, including the number that have been investigated by the force. However, we do not collect more detailed information about each of the complaints which was received or completed by the force, including the time that has elapsed between the incident being complained about and the date the complaint was made. For this reason, we do not hold the data you have requested in Questions 1-4 or Question 6 above. This information may be held by Essex police themselves if you wish to obtain it.</p> <p><u>Disapplication and application to disapply</u> There are certain limited circumstances in which a recorded complaint does not have to be dealt with under the Police Reform Act 2002. This is called disapplication and means that an appropriate authority may disapply the requirements of Schedule 3 of the Police Reform Act 2002 (https://www.legislation.gov.uk/ukpga/2002/30/schedule/3) in relation to a complaint. The appropriate authority may instead handle a recorded complaint in whatever manner it thinks fit, including taking no action on it. One of the grounds which an appropriate authority may use for this is where a complaint has been submitted more than 12 months after the incident being complained about. Further details of the grounds for disapplication can be found in Section 4 of the IOPC Statutory Guidance on our website: http://policeconduct.gov.uk/investigations/statutory-guidance</p>

The IOPC's permission to disapply a recorded complaint is only required where the complaint has previously been referred to the IOPC. Disapplication of a recorded complaint can be carried out by the police force if the complaint was not required to be referred to the IOPC. Police force information about the number of allegations disappplied can be found in the Police Complaints Bulletins on the IOPC website via the following link: <http://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics>

In your request, you did not specify dates, but the following data covers the previous three complete financial years (2015/16, 2016/17 and 2017/18). Over this period, the IOPC received 2 applications for disapplication from Essex Police.

One of these applications was approved by the IOPC (meaning that we agreed that Essex Police could disapply the requirements of Schedule 3), and the other was refused by the IOPC. The application for disapplication which was refused by the IOPC was submitted by Essex police on two grounds:

- It was out of time (the complaint was submitted more than 12 months after the incident)
- The complaint was categorised as vexatious, oppressive or an abuse of procedure

Disapplication appeal

A disapplication appeal is an appeal against a decision by the Appropriate Authority to disapply the requirements of Schedule 3 of the Police Reform Act 2002¹. There is no right of appeal where the complaint relates to a direction and control matter or where the IOPC has given its permission for the disapplication.

In the last three financial years (2015/16, 2016/17 and 2017/18), the IOPC received three disapplication appeals against Essex Police. Of these three appeals, one was upheld by the IOPC (meaning the IOPC disagreed with the force's decision to disapply the legislation); the remaining two were found to be not valid.

For the appeal that was upheld, the grounds on which Essex Police had originally made their decision to disapply the complaint were:

- It was out of time
- It was not reasonably practicable to proceed (due to either lack of cooperation or the time having elapsed)

Further information about the force's own disapplication appeals and use of disapplication as a means to finalise allegations can be found within the force's quarterly police complaints bulletins via the following link:

	<p>https://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics/your-local-police-force</p> <p>I trust you will find this information useful. More information about the role of the IOPC can be found in the IOPC Annual Report 2017/18. This can be found on the IOPC website using the following link: http://www.policeconduct.gov.uk/page/annual-report-and-plans</p>
<p><u>Ref</u> <u>1007226</u> Back to top</p>	<p><u>Complaints made against Metropolitan Police</u></p>
<p><u>Request</u></p>	<p><i>I would like to know the following going back 3 years against Metropolitan Police. This FOI relates to complaints made against Metropolitan police late (after the 12-month timescale)</i></p> <ol style="list-style-type: none"> <i>1. How many complaints against the police have been upheld that have been submitted 12 months (late) after the incident date.</i> <i>2. How many complaints against the police have NOT been upheld that have been submitted 12 months (late) after the incident date.</i> <i>3. Please list the category of complaints made i.e. failure to investigate child sexual abuse, failure to investigate burglary and break down into two categories; upheld / not upheld.</i> <i>4. What were the main reasons given by service users for complaints submitted late that were acceptable and as such accepted by:</i> <ol style="list-style-type: none"> <i>i) The force itself</i> <i>ii) IPCC / IOPC</i> <i>5. How many complaints have IOPC overridden where police have initially refused to uphold and what were the category types?</i> <i>6. Can the IOPC list any complaints submitted that were allowed within "exceptional circumstances" involved and what categories were these. i.e. Ill Health, ongoing matters, intimidation, PTSD etc.</i>
<p><u>Response</u></p>	<p>Having considered your request I can confirm that some of the information you have requested is held by the IOPC.</p> <p><u>Metropolitan Police complaints data</u> All complaints are recorded by the police force concerned in the first instance. Complainants may send their complaint directly to the IOPC but our role is limited to passing the complaint on to the relevant police force so they can consider whether it should be formally recorded. The IOPC collects police complaints data from police forces and publishes an annual report - 'Police Complaints: Statistics for England and Wales'. This information includes the total number of complaints recorded by each police force and a breakdown of how these complaints have been handled, including the number that have been investigated by the force.</p>

However, we do not collect more detailed information about each of the complaints which was received or completed by the force, including the time that has elapsed between the incident being complained about and the date the complaint was made. We also do not have the information about the specific reasons which a complainant may have given for submitting a complaint late. For this reason, we do not hold the data you have requested in Questions 1-4 or Question 6 above. This information may be held by Metropolitan police themselves if you wish to obtain it.

Disapplication and application to disapply

There are certain limited circumstances in which a recorded complaint does not have to be dealt with under the Police Reform Act 2002. This is called disapplication and means that an appropriate authority may disapply the requirements of Schedule 3 of the Police Reform Act 2002² in relation to a complaint. The appropriate authority may instead handle a recorded complaint in whatever manner it thinks fit, including taking no action on it. One of the grounds which an appropriate authority may use for this is where a complaint has been submitted more than 12 months after the incident being complained about. Further details of the grounds for disapplication can be found in Section 4 of the IOPC Statutory Guidance on our website:

<http://policeconduct.gov.uk/investigations/statutory-guidance>

The IOPC’s permission to disapply a recorded complaint is only required where the complaint has previously been referred to the IOPC.

Disapplication of a recorded complaint can be carried out by the police force if the complaint was not required to be referred to the IOPC. Police force information about the number of allegations disapplied can be found in the Police Complaints Bulletins on the IOPC website via the following link:<http://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics>

In your request, you did not specify dates, but the following data covers the previous three complete financial years (2015/16, 2016/17 and 2017/18). Over this period, the IOPC received 71 applications to disapply a complaint from the Metropolitan Police.

The full breakdown by year of applications received by the Metropolitan police is as follows:

Financial year	Number applications to disapply received	Of which approved	Of which refused	Of which deemed not valid
2015/16	33	29	1	3
2016/17	17	14	1	2
2017/18	21	20	0	1
Total	71	63	2	6

Neither of the two applications which were refused by the IOPC (i.e. where the IOPC refused with the force and did not permit them to disapply the complaint) in this period had been submitted by the Metropolitan Police on the grounds that the complaint was out of time.

Disapplication appeal

A disapplication appeal is an appeal against a decision by the Appropriate Authority to disapply the requirements of Schedule 3 of the Police Reform Act 2002³. There is no right of appeal where the complaint relates to a direction and control matter or where the IOPC has given its permission for the disapplication.

In the last three financial years (2015/16, 2016/17 and 2017/18), the IPCC/IOPC received 224 disapplication appeals against the Metropolitan Police.

The full breakdown of disapplication appeals received for the Metropolitan Police is as follows:

Financial year	Number disapplication appeals received	Of which upheld	Of which not upheld	Of which not valid
2015/16	71	14	51	6
2016/17	79	15	57	7
2017/18	74	7	63	4
Total	224	36	171	17

Of the 36 disapplication appeals upheld (i.e. where the IOPC disagreed with the force’s decision to disapply), 28 had been originally disappplied by the Metropolitan Police on the ground that they were out of time (12 months since the incident being complained about).

Further information about the force’s own disapplication appeals and use of disapplication as a means to finalise allegations can be found within the force’s quarterly police complaints bulletins via the following link:

<https://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics/your-local-police-force>

I trust you will find this information useful. More information about the role of the IOPC can be found in the IOPC Annual Report. This can be found on the IOPC website using the following link:

<http://www.policeconduct.gov.uk/page/annual-report-and-plans>

<u>Ref</u> <u>1007181</u> Back to top	<u>Document destruction at the Metropolitan Police</u>
<u>Request</u>	<i>Relating to the IOPC investigations into document destruction at the Metropolitan Police Service:</i>

	<p><i>The last update on the above matter was made in February 2017 and I note that you have had the referral since May 2016, with the issue originally raised in 2014.</i></p> <p><i>I wish to know generally: What progress has been made since the complaint was referred to you (or rather the IPCC)?</i></p> <p><i>Can you give a date when the investigation will report by?</i></p> <p><i>Specifically, can you given any indication if you have made any progress with the questions that Sarah Green set the IPCC in February 2017, and secondly can also given any information which substantively answers these questions:</i></p> <ol style="list-style-type: none"> <i>1) why it was destroyed?</i> <i>2) whether electronic copies were kept?</i> <i>3) who may have ordered its destruction?</i> <p><i>Additionally, which files were destroyed? What time period did they relate to?</i></p> <p><i>Further, can you also answer those questions in regard to the complaint that Baroness Jenny Jones made that records held by the Metropolitan Police relating to her were destroyed, or deleted in or about June 2014, was referred to the IPCC on 27 January.</i></p> <p><i>Also, I note, that you said that you were going to keep the UCPI updated with any progress. Have you given any such updates, and if so what were they?</i></p>
<p><u>Response</u></p>	<p>In regard to your final question, the IOPC has not updated the UCPI in regard to the NDEDIU investigation but intends to do so when the investigation is complete and we have made our end of investigation determinations.</p> <p>The current status of these investigations is that they are in progress. We do not hold information as to the dates on which the reports will be complete. While the NDEDIU investigation is nearing completion, enquiries have yet to be completed in the investigation relating to Baroness Jones.</p> <p>Once the investigation reports have been signed off, these matters will be subject to the post investigation steps specified in paragraph 23 of Schedule 3 to the Police Reform Act 2002 (PRA). These include our decision on whether these matters should be referred to the Director of Public Prosecutions and consideration of whether any officer may have a case to answer for misconduct.</p>

As to the remainder of your request, we can confirm that we hold relevant information. This is in the form of evidence which is relevant to seeking to answer these questions. We have decided, however, that you are not entitled to this information because it is exempt under section 22(1), 30 and 40 of the FOIA and because, in the case of sections 22(1) and 30, 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.

Our reasons for refusal are as follows.

Section 22(1) – information intended for future publication

Section 22(1) of the FOIA exempts information that is held with a view to future publication at the time of the request, provided that it is reasonable in all the circumstances to delay disclosure until the date of publication.

While there is no requirement to confirm a fixed date for publication, the public authority must have a settled intention to publish the information at some future date.

The information we are refusing is information that we intend to publish in the future. Our 'Policy on the Publication of final reports and investigation summaries' is available on our web site and confirms that the IOPC will publish an account of its investigations in nearly all of its cases:

“Non-publication should be treated as a measure of last resort. Before making a non-publication the decision maker should consider whether the risk posed by publication can be can be mitigated by other means such as further editing, redaction or anonymisation”.

The IOPC will be applying this policy to the information you have requested.

Under the policy, a decision on publication

“.....should be made at the earliest point at which it is possible to

rule out future external proceedings. This will normally be either after the report is finalised or, where there are related external proceedings, at the conclusion of those proceedings”.

As these investigations are in progress we consider that it would be reasonable to delay disclosure in accordance with our policy.

Information can be refused under section 22 only when the public interest in maintaining the exemption outweighs the public interest in disclosure.

In assessing the balance of the public interest, we have taken into account the potentially harmful consequences of disclosure that we have identified below in regard to the exemption under section. We have weighed these factors against the public interest in the information being made available immediately. We do not consider that the interests of the public in receiving the information now could outweigh the detrimental effects of compliance with your request, especially when we intend to publish significant information when the time is right. In particular, we do not believe that disclosure could be justified when the investigation and any subsequent proceedings would be likely to be undermined.

Accordingly, we have decided that the public interest in maintaining the exemption under section 22 outweighs the public interest in disclosure. Section 30– Investigations and proceedings conducted by public authorities

As stated in our letter of 11 September 2018, the information you have requested engages the exemption under section 30(1)(a)(i) of the FOIA because it is held in respect of investigations which the IOPC has a duty to carry out “with a view to it being ascertained whether a person should be charged with an offence”.

We have decided that the balance of the public interest in maintaining the exemption under section 30(1)(a)(i) outweighs the public interest in disclosure. This reason for refusal applies to these parts of your request:

- 1) *why it was destroyed?*
 - 2) *whether electronic copies were kept?*
- Additionally, which files were destroyed? What time period did they relate to?*

Our assessment of the balance of the public interest in respect of these

questions is as follows:

The public interest in release:

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. The public interest in these cases is particularly significant owing to their connection to the concerns being considered by the Undercover Policing Inquiry.

In addition, the release of detailed information about this case may assist the public in deciding whether the IOPC's investigations are sufficiently rigorous.

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 investigations are ongoing. In addition to the risk of harm to the investigation process, we must take into account the potential consequences of premature disclosure on any subsequent criminal or disciplinary proceedings

There is also a risk that disclosure would have the effect of misleading and misinforming the public about the conduct of any individuals whose conduct is under investigation. Release of this information at this time could impact on the privacy of those individuals resulting in unwarranted harm or distress.

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

You are requesting information about the key findings of the IOPC investigations.

The premature release of evidence that may subsequently form part of a prosecution case would be likely to prejudice the independence of the judicial and prosecution process and the preservation of the criminal court as the sole forum for determining guilt. The disclosure of information that is likely to generate adverse publicity about the individuals concerned (i.e. an individual being investigated for potential criminal offences who may face prosecution) would prejudice their right to a fair trial and, therefore, equally prejudice the prospect of a successful prosecution.

There is a very strong public interest in ensuring that the processes that follow completion of this investigation, including any prosecution, is not undermined by the disclosure of evidence into the public domain. This is to be weighed against the public interest in confirming the findings of these investigations before they are complete.

The IOPC will consider publication of information about these investigations at the appropriate time, applying its 'Policy on the Publication of final reports and investigation summaries', which is available on our web site. Under the policy, a decision on publication

“.....should be made at the earliest point at which it is possible to rule out future external proceedings. This will normally be either after the report is finalised or, where there are related external proceedings, at the conclusion of those proceedings”.

Taking all of these factors into account we conclude that the public interest in disclosure does not equal or outweigh the public interest in maintaining the exemption at the present time. 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). 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.

	<p>The information you have requested would identify, or would be reasonably likely to identify, some of the persons involved in these matters.</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>In our view none of the conditions under article 6 of the GDPR would support disclosure of this personal data 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, in particular, that these investigations are in progress and that it would be contrary to the rights and freedoms of the persons involved in these matters to identify them at this time.</p> <p>This also means that disclosure of this personal data would be outside of the reasonable expectations of these individuals and would consequently be unfair.</p> <p>In reaching this decision we have taken into account the guidance contained in our Naming Policy relating to police officers and staff. This is available via the following link: https://www.policeconduct.gov.uk/sites/default/files/Documents/Who-we-are/Our-Policies/naming-of-police-officers-and-police-staff-IOPC.pdf</p> <p>Our naming policy gives effect to our obligations under the GDPR while recognising the importance of openness and transparency in appropriate cases.</p> <p>We have decided, therefore, that disclosure of this personal data would 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>Ref 1007231 Back to top</p>	<p><u>Investigation report into case of PC Ihsan Ali of Lancashire Police</u></p>
<p><u>Request</u></p>	<p><i>Could you provide me the investigation final report into the case of PC Ihsan Ali of Lancashire Police?</i></p>
<p><u>Response</u></p>	<p>Included with this letter is a redacted version of the Lancashire Police investigation report.</p>

We have decided that you are not entitled to the redacted information because it is exempt under section 31 and 40(2) of the FOIA.

In the case of section 31, we are refusing the information after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure.

Section 40 is an 'absolute' exemption with the result that there is no need to consider the balance of the public interest before deciding that the information can be refused.

Redactions under section 31 – law enforcement

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.

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 includes information relating to law enforcement techniques that would, if disclosed into the public domain, be likely to undermine the effectiveness of police operations to the detriment of the prevention or detection of crime and the apprehension or prosecution of offenders. We conclude, therefore, that the exemptions under sections 31(1)(a) and 31(1)(b) are engaged by this information.

Information can be refused under section 31 only when the public interest in maintaining the exemption outweighs the public interest in disclosure. My findings on the balance of the public interest are as follows.

The public interest in release:

The release of this information would be likely to assist the public in understanding the nature and scope of the enquiries undertaken by Lancashire Police under the supervision of the IPCC. Based on this information the public can form a view as to the seriousness with which this matter was treated and consider how far this indicates that the police and

the IPCC are effectively fulfilling their role of investigating police officers who are alleged to be abusing their authority and committing offences.

A more detailed account of this investigation may also assist the public in assessing whether the IPCC was justified in determining this matter as a supervised investigation.

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 I have identified above.

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

The evidence contained in this investigation report was the subject of a Crown Court trial that resulted in PC Ali being convicted on four counts of misconduct in public office. In our view, these proceedings and their outcome significantly reduce the public interest in releasing the redacted information. In addition, no concerns have been raised about the quality of the police investigation or the standard of our supervision. These factors strongly suggest that the public interest in disclosure is not sufficient to equal or outweigh the public interest in avoiding the likelihood of prejudice we have identified.

We are satisfied, therefore, that the public interest in maintaining these exemptions outweighs the public interest in disclosure.

Redactions under 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 need to ensure 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 information relating to the investigation including police officers and members of the public.

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.

In our view none of the conditions under article 6 of the GDPR would support disclosure of this personal data. The evidence as to PC Ali's conduct has been considered in detail by a jury in open court. In these circumstances, we consider that the disclosure of this personal data would not be *necessary* to meet any legitimate interest. We have noted that further publicity would be likely to result in distress to the four women who were the victims in this case, meaning that disclosure of the information relating to them would be especially difficult to justify under article 6.

We have decided, therefore, that disclosure of this personal data would breach the data protection principles meaning that the exemption at section 40(2) of the FOIA applies to the personal data we have redacted.

“Could you also provide other IOPC/IPCC reports related to this officer, such as on the force's handling of the investigation?”

The IOPC does not hold any other reports relating to this officer.

“If the final report has not been completed, could you tell me the status of the investigation?”

The investigation and final report is complete.

“If the IOPC did not conduct an investigation, could you tell me when the case was referred to you and what action you took and why?”

The matter was referred to the IPCC (as we then were) on 26 January 2017 and was determined as an investigation by Lancashire Police under IPCC supervision.

We have decided that you are not entitled to know why the IPCC's mode of investigation decision was that the matter would be supervised. This information engages the exemptions under section 31(1)(a) and 31(1)(b) of the FOIA and we are refusing to disclose it

after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure. Our reasons are as follows.

The information you have requested relates to the tactics used by the police in this investigation, as these were taken into account by the IPCC when deciding that this matter should be supervised. The disclosure of this information would be likely to undermine the effectiveness of police operations and the working relationship between the police and the IOPC. These consequences would be detrimental to the prevention or detection of crime and the apprehension or prosecution of offenders with the result that the exemptions under sections 31(1)(a) and 31(1)(b) are engaged by this information.

Our assessment of the balance of the public interest is as follows.

The public interest in release:

The release of this information would inform the public about the background to the IPCC's decision to supervise this case and the nature of our subsequent involvement. In revealing details of the police investigation, this information would enable the public to form a view on whether the decision to supervise was appropriate, or whether the IPCC should have carried out its own investigation of this officer.

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 I have identified above.

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

The evidence produced by this investigation was considered by the trial jury who decided that the officer was guilty. We consider, therefore, that the public interest in providing a detailed account of our decision to supervise is very limited, especially when the investigation has not been criticised. In these circumstances the public interest in disclosure does not equal or outweigh the public interest in avoiding the likelihood of prejudice we have identified.

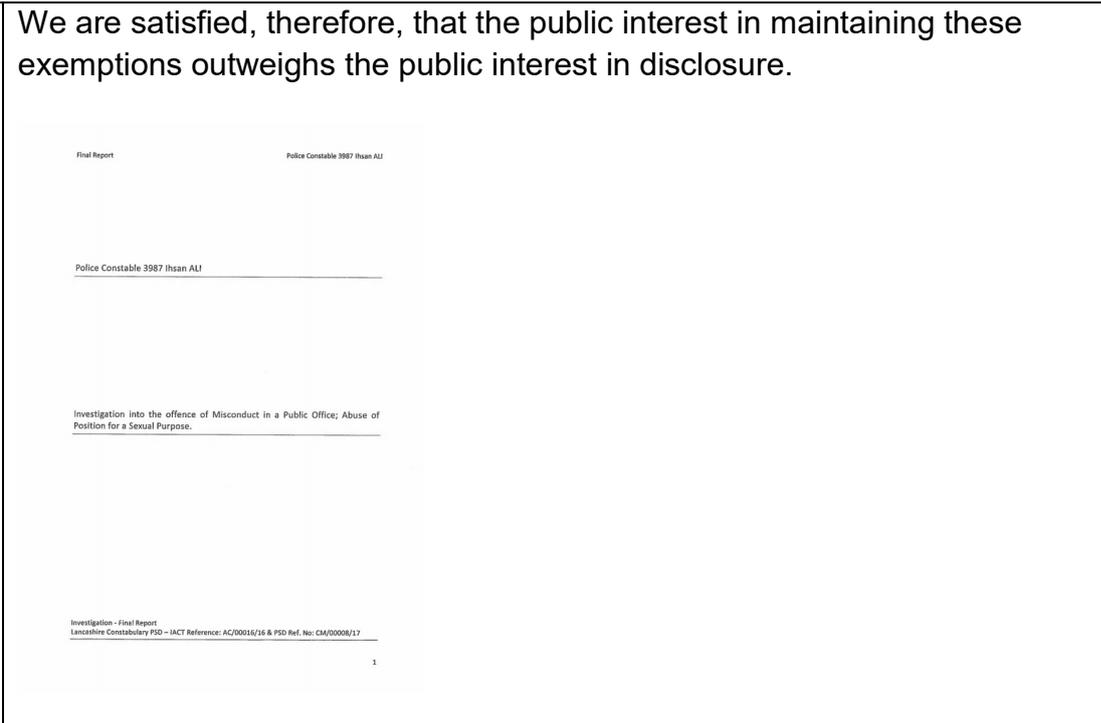
	<p>We are satisfied, therefore, that the public interest in maintaining these exemptions outweighs the public interest in disclosure.</p> 
<p><u>Ref</u> <u>1007235</u> Back to top</p>	<p><u>Independent investigation outcomes</u></p>
<p><u>Request</u></p>	<p>For independent investigations in 2015/16, 2016/17 and 2017/18, how many resulted in:</p> <ul style="list-style-type: none"> • there being a misconduct case to answer • acquittals at misconduct hearings • misconduct findings • there being a case for criminal prosecution • criminal convictions • acquittals in criminal courts
<p><u>Response</u></p>	<p>Information relating to the outcomes of our completed investigations is recorded manually by operational staff on an IOPC database, known as the Outcomes Tracker. We are aware of a number of issues surrounding the completeness of data recorded on this tracker, therefore the data provided is the most recent available and is subject to change. As such, it should not be considered definitive and should be used for illustrative purposes only. It should also be noted that in more recent cases we may not hold information because the relevant processes, such as disciplinary proceedings, have not yet taken place.</p> <p>It is possible for more than one officer to be under investigation, therefore we record outcomes information against the individual's subject of the investigation, not against the investigation.</p> <p><u>Independent Investigations</u></p> <p>Of the 1,413 independent investigations completed from 1 April 2015 to 31 March 2018, the IOPC holds outcomes information in the Outcomes Tracker for 1,315 investigations, relating to 2,479 individuals.</p>

Table 1a – Number of Independent Investigation Completed for the last three financial years

	2015/16	2016/17	2017/18
Number of Independent Investigations Completed	259	444	710

Table 1b – Number of those Independent Investigations that have outcomes data and the number of subjects

	2015/16	2016/17	2017/18
Number of Independent Investigations that have Outcomes data	252	426	637
Number of subjects	604	755	1120

Investigation Findings:

There are no disciplinary acquittals therefore we are providing the investigation finding for completed investigations and, where the meeting/hearing has taken place, the outcome.

Misconduct is defined as a breach of the Standards of Professional Behaviour. Gross misconduct is a breach of the Standards of Professional Behaviour so serious that, if proven, dismissal would be justified.

At the conclusion of an IOPC investigation, we send our final report to the police force concerned.

We tell the force our opinion about what should happen to those involved in the incident – for instance, they may need further training, or they may need to face misconduct proceedings. Proceedings constitute a meeting in the case of misconduct or a hearing (where the outcome may include dismissal), in the case of gross misconduct.

An investigation is considered ‘complete’ when the final report has been approved by an IOPC decision maker. As such, there may be a considerable period of time from the decision of a case to answer (CTA) to any subsequent misconduct proceedings being held. The actual number of individuals who ultimately attend misconduct proceedings may be higher than the numbers provided here.

For the investigations over the last three financial years, the IOPC found a case to answer for misconduct or gross misconduct for 240 of 604 individuals in 2015/16, 280 of 755 individuals in 2016/17, and 284 of 1,120 individuals in 2017/18.

Table 2a – Number of investigations that had a Case to Answer finding for the last three financial years

CTA Level	2015/16	2016/17	2017/18
Number of individuals with CTA Gross Misconduct	107	128	98
Number of individuals with CTA Misconduct	133	152	186
Number of individuals with CTA Not specified (Staff)	18	5	5
Number of individuals with CTA Not Known	1	0	2
Total number of individuals with CTA	259	285	291

Misconduct Proceedings

Following the conclusion of an IOPC independent investigation, the police force then provides its view about what should happen. If we disagree with the force, we have the power to recommend that it takes appropriate action, such as holding a misconduct meeting or hearing. Ultimately, we can direct the force to do that.

It is the police force that carries out any disciplinary action. They are responsible for holding any misconduct meetings (for misconduct) or hearings (for gross misconduct)

The available outcomes at a misconduct meeting are:

- No further action
- Management advice
- Written warning
- Final written warning

The available outcomes at a misconduct hearing are:

- No further action
- Management advice
- Written warning
- Final written warning
- Extension of final written warning (exceptional circumstances only)
- Dismissal with notice
- Dismissal without notice

It may also be agreed that an individual receives management action outside of the formal misconduct process.

Table 3a - Number of individuals that were found by the IOPC to have a case to answer and subsequently attended misconduct proceedings

	2015/16	2016/17	2017/18
Total number of individuals where conduct was proven	66	64	55
Total number of individuals where conduct was not proven	24	44	37

For individuals which were found by the IOPC to have a case to answer and we have not recorded whether they have attended proceedings, it may be the case that those proceedings have yet to be held.

Table 3b – The outcome of Conduct Level Proven

Outcomes of Disciplinary Proceedings	2015/16	2016/17	2017/18
Number of individuals where Misconduct level was proven	53	48	45
Number of individuals where Gross Misconduct level was proven	12	16	10
Number of individuals where conduct level proven is not known	1	0	0
Total number of individuals where conduct was proven	66	64	55

Table 3c – The Misconduct Sanctions where conduct was proven

Sanctions	2015/16	2016/17	2017/18
Management Advice	24	21	21
Written Warning	15	14	15
Final Written Warning	11	11	6
Dismissed Without Notice	6	12	4
Dismissed With Notice	0	0	0
No Further Action	7	3	7
Other	3	1	2
Outcomes not known	0	2	0

Criminal Proceedings

The IOPC will send a file to the Crown Prosecution Service (CPS) for them to decide whether there was a case for criminal proceedings. This is done in line with the Police Reform Act, and more can be found on this in our statutory guidance. These were the findings for the last three financial years:

78 individuals were referred to the CPS in 2015/16, of these the CPS decided to prosecute 6 individuals.

94 individuals referred to the CPS in 2016/17, of these the CPS decided to prosecute 8 individuals.

59 individuals referred to the CPS in 2017/18, of these the CPS decided to prosecute 7 individuals.

Table 4a – The verdicts for subjects where the CPS decision was to prosecute

Trial Verdict	2015/16	2016/17	2017/18
Number of individuals where outcome of trial - Guilty	4	3	2
Number of individuals where outcome of trial - Not Guilty	0	5	3
Number of individuals where outcome of trial - Not Heard	0	0	0
Number of individuals where outcome of trial - Hung Jury	1	0	0
Outcome of Trial Not Known	1	0	2
Total number of verdicts	6	8	7

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Telephone recording

Request

1. *Do you have any guidance or policy for the public or service users to record calls when they speak to your staff or call centres. Do you Inform Users they can record. If the answer is no what is the reason for this please if so do send me a copy.*
2. *If you have a Unacceptable Behaviour Policy and Procedure can you tell me if one of these are to object to telephone calls being recorded by the caller due to it being not necessary or unwanted or indeed the staff member feels threatened can you explain why you would have such Unacceptable Behaviour Policy and Procedure that goes against current uk law. If there is no policy why not or how do I find out why?*
3. *Are your staff the majority of them who answer public calls or when meeting a member of public are staff aware of the policies and the laws ref telephone recordings using the relevant laws laid down by legislation. If the answer is no why not. This sort of training awareness is needed as most call centres social workers teachers police members of parliament are not aware recordings are aloud will you highlight the public is ok to record a 2 way call or will you let the confusion continue.*
4. *If you have no policy advice or framework for the above will you develop a policy etc if there is a policy send me one please.*
- 4a. *Will you encourage the public to record a 2 way conversation if the answer is no, why not.*
5. *What are your organizations views on charging the public in FOI*

	<p><i>requests and data protection and subject access requests should their information request be free.</i></p> <p><i>5a. What happens in a situation a benefit claimant or non waged person needs information what do you do to help them or someone who has no spare income.</i></p> <p><i>5b. Is it fair if the public record you then they should charge you for a copy of the recording or video the same fee you charge them. Any tips and comments will help the public understand the uks public servants and business policies ref this subject.</i></p> <p><i>6. What do you do and what is your policy when a serious complaint against a staff member is made when a person complains about wrong doing</i></p> <p><i>6a. and has evidence of foul play in your organization will you accept covertly or permission based Audio or video evidence in the case.</i></p> <p><i>6b. Do you fully investigate under public interest laws and take note of any criminal charges?</i></p> <p><i>6c. if the answer is no why not. Do send me a copy of the policy.</i></p>
<p><u>Response</u></p>	<p>1. The IOPC does not hold any recorded information relating to this part of your request.</p> <p>2.The IOPC's 'Managing service user contact policy' sets out the IOPC's policy on managing contact with the small minority of service users whose actions or behaviour are considered unacceptable, impacting on the work of its staff. Neither this nor the IOPC's Telephone Policy make any mention of the recording of calls by the external caller. We do not hold any information as to why these policies do not refer to the recording of calls by the caller, or as to how you would find out why this is.</p> <p>3&4. In keeping with the remainder of your request, we have understood these questions as referring to members of the public recording calls or meetings in which the IOPC is involved. As previously stated our policies do not refer to recording by members of the public and we do not hold any other information that could fall within the terms of these parts of your request. If, however, our understanding of this part of your request is incorrect, please let us know.</p> <p>4a. The IOPC does not hold any recorded information relating to this part of your request.</p> <p>5. The IOPC does not make any charge for answering FOIA or subject access requests.</p>

5a. The IOPC does not hold any recorded information relating to this part of your request.

5b. The IOPC does not hold any recorded information relating to this part of your request.

6. The Independent Police Complaints Commission (Staff Conduct) Regulations 2004 define the procedures to be followed when the IOPC receives a complaint about the conduct of a member of its staff. The Regulations are included with this letter. We are in the process of drafting a new policy regarding the handling of complaints and feedback about our staff.

6a. The IOPC does not hold any recorded information relating to this part of your request.

We would advise, however, that whether or not such evidence would be considered would normally depend on the nature of the case and the relevant legislation.

6b. Complaints about the conduct of members of our staff are recorded and investigated internally under the relevant Regulations, a copy of which is included with this letter. As criminal allegations cannot be considered under the Regulations, complainants are advised to report such allegations to the police; however, such allegations may be recorded and reported internally.

6c. Please see our answer to question 6b.