

FOI Disclosures February 2021

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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> <u>1008903</u> <small>Back to top</small>	<u>IOPC consultation with CPS</u>
<u>Request</u>	<p>In your recent news item: https://www.policeconduct.gov.uk/news/sussex-police-officer-dismissed-following-iopc-investigation</p> <p>The IOPC states that: "During our investigation Officer A was interviewed under criminal caution but we decided their actions did not reach the criminal threshold, and no file of evidence was sent to the Crown Prosecution Service."</p> <p>The IOPC has no authority under the Police Reform Act to consider what does and does not reach the criminal threshold, certainly chapter 13.74 of the Statutory Guidance for the Police Complaints System states:</p> <p>"Where there is an early indication that a person whose conduct is under investigation (if any) may have committed a criminal offence, the IOPC encourages the appropriate authority to have early conversations with the CPS. "</p> <p>Clearly in this case where there obvious grounds to suspect that the administration of justice had been seriously interfered by Officer A there will have been early conversations with the CPS.</p> <p>Please confirm that conversations did take place with the CPS by the appropriate authority or the IOPC; or please confirm that the IOPC themselves took the unilateral decision not to progress with criminal charges, thereby excluding the CPS from the decision making process.</p>
<u>Response</u>	The IOPC liaised with the Crown Prosecution Service during the course of this investigation.

The decision as to whether or not to send a file of evidence to the Crown Prosecution Service was made by the IOPC under paragraph 23(2) of Schedule 3 Police Reform Act 2002.

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1008904
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Referrals regarding abuse of position for a sexual purpose

Request

How many police officers were referred to the IOPC for pursuing inappropriate (i.e. sexual) relationships with persons related to investigations (i.e. victims friends/ victims/ witnesses) through accessing personal information on police computer systems? What police force had the most officers referred to the IOPC, accused of such inappropriate pursuit of relationships? Please could you state the number of such officers referred.

*Information required for the following periods:
Between 1 January and 31 December 2020,
Between 1 January and 31 December 2019
Between 1 January and 31 December 2018,*

Response

We have considered your request under the Freedom of Information Act (FOIA) and have decided that we cannot provide the requested information within the cost limit under section 12. This is because you have requested data about cases matching a very particular set of circumstances. In order to comply with your request it would be necessary to identify cases in which an officer was alleged to have pursued a sexual relationship with a person connected to an investigation and had accessed personal information about the same individual on police computer systems. This data cannot be produced by means of automated searches.

A starting point for identifying the relevant cases would be to carry out an automated search for the number of referrals completed in each of these three years in which the 'Abuse of power for sexual gain' case factor had been selected. This factor is defined as follows:

1. *Abuse of authority for sexual gain. (select sub-factor 'Abuse of authority, non-sexual' for improper emotional relationships). **Please note this only applies to members of the public.***

Examples:

- An officer engages in sexual intercourse while on duty with a vulnerable female.*
- A police officer comes into contact with a female through an investigation into drugs supply. While off-duty, the officer makes inappropriate contact with the female, texting, calling and visiting her at her home, where they engage in sexual acts.*

The data produced by this search is as follows:

Year	Number of Referrals Completed (with factor selected)
2018	147
2019	117
2020	130

This means the case factor of abuse of power for sexual gain has been selected in 394 cases during this period. Since case factors are manually selected and can change throughout a case, this may or may not be an accurate reflection of actual cases where APSP is a factor.

Factors can often change as a result of further evidence received during an IOPC investigation. We would need to manually look at each each of these cases in order to confirm that the factor had been applied correctly and that it was still relevant to the case. Only after that could we look at whether the officer had accessed information using police computer systems. In many of these cases it is likely that we would not hold sufficient information to be able to confirm that the officer had accessed police data in connection with the abuse.

We are satisfied that the work involved in reading case documents and extracting the data would exceed the cost limit which is set for the IOPC at £450, or 18 hours of staff time at £25 per hour. We have concluded, therefore, that section 12(1) is engaged by your request.

As abuse of authority for sexual purpose is a matter of public concern we are currently considering how we can publish data about these cases in the future.

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1008915

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Allegations of abuse of position for a sexual purpose

Request

Please can you tell me the number of reported allegations of abuse of position for sexual purpose received in each of the last five calendar years:

2020
2019
2018
2017
2016

Response

We have carried out a search of our referrals completed in each of these years in which the 'Abuse of power for sexual gain' case factor has been selected. The results are as follows:

Year	Number of Referrals Completed (with factor selected)
2016	74
2017	174
2018	147
2019	117
2020	130

Whereas the data we provided in December 2018 was separated by year ending 31 March this data is separated by calendar year in accordance with your request.

Factors can change as a result of further evidence received during an IOPC investigation meaning that some cases may have been removed from or added to

	<p>the results of the search we carried out in December 2018. We would need to manually look at each of these cases in order to confirm that the factor had been applied correctly and that it was still relevant to the case.</p> <p>As abuse of authority for sexual purpose is a matter of public concern we are currently considering how we can publish data about these cases in the future.</p>
<p><u>Ref</u> <u>1008929</u> Back to top</p>	<p><u>Operation Embley report</u></p>
<p><u>Request</u></p>	<p>A minimally redacted copy of the full report for Operation Embley</p>
<p><u>Response</u></p>	<p>The IOPC holds this information in the form of nine investigation reports. We have decided we are not obliged to disclose these reports because they are exempt from disclosure under sections 30(1)(a)(i), 30(2) and 40(2) of the FOIA. In the case of the exemptions under sections 30(1)(a)(i) and 30(2) we are refusing your request after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure.</p> <p>Section 40(2) 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>The IOPC is working with the MPS regarding some organisational learning identified by the investigation and some other actions have yet to be completed. As explained in our recent media statement, we are committed to publishing a summary of our findings at the appropriate time in line with our Publication Policy. The information that we publish about this case will take account of privacy considerations and information that could be prejudicial to this and future investigations. The purpose of any such publication would be to provide the public with a meaningful and proportionate account of the investigation so as to further the public interest in openness and transparency. We anticipate, therefore, that the public interest in being properly informed about this case will be met by these disclosures without the harmful effects that would be likely to follow from release of the full reports.</p> <p>We are in the process of carrying out a thorough review to ensure that the published information meets these requirements. At the current time we are unable to give a precise publication date.</p> <p>While it cannot be disputed that there is a significant public interest in the release of information about this particular case, we have decided that the public interest in disclosure of this information does not outweigh the public interest in avoiding any harm to the investigation and safeguarding the relationship between the IOPC and confidential sources.</p>
<p><u>Ref</u> <u>1008969</u> Back to top</p>	<p><u>Police misconduct hearings chaired by barrister Delroy Henry</u></p>
<p><u>Request</u></p>	<p>As per the right afforded to me by the Freedom of Information Act 2000, I would be most grateful if you could supply the following organisational data to me:</p>

	<p>1. Barrister Delroy Henry (Citadel Chambers) has sat on/chaired a number of police misconduct hearings for the IPCC. Can you confirm whether Mr Henry is still actively retained by the IOPC for such duties?</p> <p>2. Under the direction of the IPCC/IOPC, how many police misconduct hearings has Mr Henry <u>sat on</u>, to the current date?</p> <p>3. As per 2, how many police misconduct hearings has Mr Henry <u>chaired</u>, to the current date?</p> <p>4. According to records held by the IPCC/IOPC, what was the outcome of each of the misconduct hearings Mr Henry chaired, <u>prior</u> to any appeals process being invoked?</p>
<p><u>Response</u></p>	<p>This information is not held by the IOPC.</p> <p>The IOPC is not responsible for establishing the disciplinary panel and has no involvement in choosing panel members. In police misconduct hearings, this role is reserved for appropriate authorities (i.e. the police force in relation to which the subject officer is a member) and local policing bodies (in most cases Police and Crime Commissioners). <u>Regulation 28(4) of the Police Conduct Regulations 2020</u> outlines how the panel of three people are appointed.</p> <p>For an explanation of the appointment process, please see paragraphs 11.35-11.41 (pages 125-126) of the <u>Home Office Guidance, Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing</u></p>
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