

## FOI Disclosures August 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](mailto:Requestinfo@policeconduct.gov.uk) quoting the reference number from the relevant response.

<b><u>Ref</u></b> <b><u>1009385</u></b> <a href="#">Back to top</a>	<b><u>Misconduct notices and disciplinary proceedings</u></b>
<b><u>Request</u></b>	<p><i>For the year 2018/19, please provide the number of (i) misconduct notices you served and (ii) the number misconduct notices you served that (a) lead to disciplinary proceedings and (b) did not lead to disciplinary proceedings.</i></p>
<b><u>Response</u></b>	<p>We have understood your enquiry as seeking data that would enable you to compare the number of disciplinary notices served in a given year with the disciplinary outcomes during the same year.</p> <p>While we hold data relating to your request this is not easily accessible and would not result in a meaningful comparison, not least because many of the officers who face disciplinary proceedings in a given year would have been served with the relevant discipline notice in a previous year. In addition, there are a number of reasons why we do not rely on data about disciplinary notices when assessing the outcomes of IOPC investigations.</p> <p>The information we hold in relation to your request is set out below together with a summary of the process we follow when considering alleged misconduct under our investigations.</p> <p><u>Disciplinary notices</u></p> <p>In the course of an IOPC investigation, where an indication arises that an officer may have breached professional standards that may warrant a disciplinary sanction, we serve a disciplinary notice to advise them they are subject to investigation. These disciplinary notices apply only to police officers and special constables. The requirement to serve such a notice and the information it must contain is specified in legislation.</p>

Different notification procedures apply to members of police staff who are identified as investigation subjects. With regards to police staff, the method by which the notice of investigation should be served may be specified in their terms and conditions of employment or by local force policy.

The purpose of a notice is to notify to the officer that an allegation has been made that their individual conduct may have amounted to a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action and that there will be an investigation into the circumstances. They must be served 'as soon as practicable' based on an assessment of the evidence then available. It should be noted that the threshold for serving a formal notice on an officer or special constable is a low one and the service of a notice does not imply that the subject is guilty of misconduct.

All subjects will be given a notice unless it would prejudice an investigation, including a criminal investigation. Notices must also be sent whenever the risk assessment is updated and changes during the investigation, meaning there can be multiple notices for each subject. A description of all of the conduct that it is alleged may have breached the Standards of Professional Behaviour will be set out in the notice, meaning that a single notice may cover several allegations.

For all these reasons, it is much more helpful to consider data about the number of investigations subjects when assessing the outcomes of IOPC investigations. We should also emphasise that we do not extract data as to the numbers of notices served or as to the number or type of allegations that may be described in each notice. The work involved in confirming the number of notices served in a single year would exceed the cost limit under section 12 of the FOIA owing to the large number of subjects whose documents it would be necessary to search.

However, the IOPC does extract data as to the number of subjects and conduct matters that we have investigated. Conduct matters are situations where there is an indication that a person serving with the police may have committed a crime or behaved in a manner that would justify disciplinary proceedings.

The IOPC has [published independent investigation outcomes for 2018/19 and 2019/20](#) and will publish outcomes reports annually. The 2018/19 report confirms that we completed 717 investigations in 2018/19. These involved 342 conduct matters in relation to 800 police officers and staff. It should be noted that many of the disciplinary notices relating to these 800 persons would have been served before 2018/19.

#### Investigation outcomes and proceedings

Our investigations assess all the available evidence and provide an independent opinion on whether there is a case to answer for misconduct or gross misconduct, or whether someone's performance was unsatisfactory. We send our report to the police force involved, which then makes its own determination on whether someone has a case to answer. If the force disagrees with the opinion set out in our report we can recommend or if necessary direct the force to hold a disciplinary hearing. The final decision about whether misconduct is proven and what, if any, sanction should apply is made during misconduct proceedings. These are conducted by the force, not the IOPC. A misconduct hearing panel has an independent, legally qualified, chair.

	<p>Our <a href="#">2018/19 outcomes report</a> confirms that, of the 800 investigation subjects involved in the 717 investigations we completed in this period, 230 were determined by the IOPC to have a case to answer for misconduct or gross misconduct.</p> <p>Our report also confirms that following an IOPC investigation, forces held 170 misconduct proceedings which resulted in 103 proven misconduct or gross misconduct cases. These outcomes may relate to investigations completed during this period, or they may have been completed before 2018/19 with the resulting misconduct proceedings taking place during 2018/19. This means that these figures for proceedings should not be compared with the data given above for the same year in respect of investigation subjects, conduct matters and IOPC case to answer decisions. This is because there can be a significant time lag between the end of our investigation and any misconduct proceedings conducted by police forces, or criminal cases prosecuted by the CPS.</p> <p>While the majority of misconduct investigations are carried out by police forces, our investigation outcomes reports only contain data relating to IOPC investigations. The police workforce data published by the Home Office includes data about all cases of police misconduct and criminal investigations involving officers and staff. The most recent data relates to the year to 31 March 2020 and is available on Gov.UK <a href="#">here</a>.</p>
<p><b><u>Ref</u></b> <b><u>1009392</u></b> <a href="#">Back to top</a></p>	<p><b><u>Wayne Couzens referrals</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>* Please provide copies of all referrals received by the IOPC which relate to Wayne Couzens;</i></p> <p><i>* Please provide copies of all casework assessments and MOI decisions in relation to the referrals.</i></p>
<p><b><u>Response</u></b></p>	<p>We have decided that we are not obliged to disclose the information we hold under your request because it engages the exemptions under sections 30, 31 and 40 of the FOIA.</p> <p>In the case of information falling under section 30 and 31, we are refusing your request because 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>The IOPC has published information about these referrals and investigations in the form of its <a href="#">news release dated 9 July 2021</a>. This summarises the matters we have decided to investigate and the matters that we sent back for local investigation by the force. Our news release goes some way to meeting the public interest in disclosure by providing an account of the concerns surrounding the conduct of Wayne Couzens, but without the risk of harm to ongoing enquiries and proceedings.</p> <p>On completion of these investigations and related proceedings, a decision will be made about what information will be released to the public regarding our findings and conclusions. This decision will be made under our <a href="#">Policy on the publication of final investigation reports and summaries</a>. Therefore, we aim to provide the fullest possible account of these matters at the appropriate time.</p>

<p><b><u>Ref</u></b> <b><u>1009406</u></b> <a href="#">Back to top</a></p>	<p><b><u>IOPC workforce</u></b></p>
<p><b><u>Request</u></b></p>	<ol style="list-style-type: none"> <li>1. Total number of staff employed as at 31.3.2021</li> <li>2. Total number of staff at that date with             <ol style="list-style-type: none"> <li>(i) 3 years service</li> <li>(ii) 5 years service</li> <li>(iii) 10 years service (to include service with the predecessor organisation, the IPCC)</li> </ol> </li> <li>3. Total number of staff who formerly served as warranted police officers or police staff.</li> <li>4. Total payroll cost at 31.3.2021</li> </ol>
<p><b><u>Response</u></b></p>	<ol style="list-style-type: none"> <li>1. Answer: 1,013</li> <li>2. Answer:             <ol style="list-style-type: none"> <li>(i) Up to 3 years service: 365</li> <li>(ii) 4 or 5 years service: 188</li> <li>(iii) 6-10 years service: 290; More than 10 years service: 170</li> </ol> <p>On 31/3/21, 118 members of staff had served for 3 years, 79 for 5 years and 14 for 10 years.</p> </li> <li>3. Answer: 108 ex-police officer, 96 ex-police civilian, 21 ex-police both</li> <li>4. Answer: Staff costs for year ended 31/3/2021 £53,950,000</li> </ol>
<p><b><u>Ref</u></b> <b><u>1009408</u></b> <a href="#">Back to top</a></p>	<p><b><u>Service of Regulation 16 notices involving criminal allegations</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>Information about the number of cases where a regulation 16 notice has been served on a police officer, a former police officer or a member of police staff where the notice includes an allegation of criminal conduct. This request relates only to IOPC investigations.</i></p>
<p><b><u>Response</u></b></p>	<ol style="list-style-type: none"> <li>1. The number of regulation 16 notices that include allegations of criminal conduct served during the calendar years 2018, 2019 and 2020 and the first six months of 2021.</li> </ol> <p>In the course of an IOPC investigation, where an indication arises that an officer may have breached professional standards that may warrant a disciplinary sanction, we serve a disciplinary notice to advise them they are subject to investigation.</p> <p>We would emphasise that notifications under Regulations 16 or 17 do not include any reference to criminal offences that may be under investigation</p>

The requirement to serve such a notice and the information it must contain is specified in legislation. Where the complaint was made or the conduct matter or Death or serious Injury matter came to the attention of the Appropriate Authority on or after 1 February 2020, the relevant provision is Regulation 17 of the Police (Complaints and Misconduct) Regulations 2020. Otherwise the notice is served under Regulation 16 of the Police (Complaints and Misconduct) Regulations 2012. These notices apply only to police officers, special constables and, in certain circumstances, former officers.

Different notification procedures apply to members of police staff who are identified as investigation subjects. With regards to police staff, the method by which the notice of investigation should be served may be specified in their terms and conditions of employment or by local force policy.

All subjects will be given a notice unless it would prejudice an investigation, including a criminal investigation. A notice must also be given whenever the risk assessment is reviewed and changes during the investigation, meaning that multiple notices may be served on a single subject. A description of all of the conduct that it is alleged may have breached the Standards of Professional Behaviour would normally be set out in the notice, meaning that a single notice may cover several allegations.

We do not extract data as to the numbers of notices served or the number or type of allegations that may be described in each notice. Even if we did extract this data it may not answer this part of your request. So as to find out the number of notices served and decide whether their contents may assist with your request we would have to carry out a manual search of our case papers relating to each investigation subject. In 2018/19 alone we completed investigations involving 800 subjects. It is clear, therefore, that the work involved in locating and retrieving the data under this part your request would exceed the cost limit under section 12 of the FOIA, which is set at 18 hours of staff time for the IOPC.

Multiple requests within a single item of correspondence are considered to be separate requests for the purpose of section 12. If they relate to the same overarching theme, public authorities can aggregate two or more separate requests, in accordance with the conditions laid out in the Fees Regulations. We find that the multiple requests in your email of 20 July 2021 are connected by a single overarching theme, namely police discipline notices disclosing allegations of crime and the outcomes of these allegations. Accordingly, we find that the section 12 cost limit applies to the whole of your request with the result that we are not under a duty to comply with it.

In accordance with our duties under section 16 of the FOIA we have considered how far our existing data may help with your enquiry.

The IOPC has [published independent investigation outcomes for 2018/19 and 2019/20](#) and will publish further outcomes reports annually. These reports contain data about the investigations and proceedings completed in each of these years. In regard to the first part of your request, our data confirms:

- In 2018/19 the IOPC completed 717 investigations involving 800 police officers and staff. Of these, 107 were also criminal investigations involving 158 accounts obtained under criminal caution.

- In 2019/20 the IOPC completed 718 investigations involving 704 police officers and staff. Of these 129 were also criminal investigations involving 169 accounts obtained under criminal caution.

We are still working on extracting and verifying the data to be published in our 2020/21 investigation outcomes report. We anticipate that this report will be published on our web site in October this year.

2. *The data should identify separately those served on a serving police officer, a retired police officer and a member of police staff*

While our outcomes data is focused on the individual subjects whose conduct we investigate, our reporting does not enable us to reliably separate these subjects according to whether they are serving or former officers, or members of police staff. For the reasons given above, the staff time that would have to be committed to producing this data is relevant to our estimate of whether the cost limit would be exceeded, meaning that we are not required to provide this information under your request. We are aiming to produce this data in future reports.

*The request is seeking a further analysis of this data to provide the following information:*

3. *On the completion of the investigation in the specific calendar year, how many of the original allegations of criminal conduct were upheld by the decision maker?*

This information is not held because the IOPC decision maker does not determine whether a criminal or any other allegation is upheld. The decision maker applies the two part referral test under paragraph 23 of Schedule 3 of the Police Reform Act 2002 (PRA):

*2A)The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.*

*(2B)The second condition is that-*

1. *the circumstances are such that, in the opinion of the Commission \*, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or*
2. *any matters dealt with in the report fall within any prescribed category of matters.*

Paragraph 23 provides that the matter shall be referred to the Director of Public Prosecutions when both conditions are met.

4. *How many allegations were submitted to the CPS for consideration of criminal prosecution and how many of those cases were subsequently the subject of a criminal prosecution.*

Our 2018/19 outcomes report confirms that in regard to the 717 investigations completed by the IOPC in this period, 73 subjects were referred to the CPS for a decision on prosecution. This is equal to 46% of the 158 subjects who were criminally investigated (i.e. subjects from whom accounts were obtained under criminal caution). The CPS decided to prosecute 15 of these 73 subjects. When we published this report in May 2021, the CPS had yet to decide whether or not to prosecute three out of these 73 subjects.

From the 718 investigations completed in 2019/20 we referred 103 subjects to the CPS, equal to 61% of the 169 subjects who were criminally investigated. The CPS decided to prosecute 36 of these 103 subjects. When we published this report in May 2021, the CPS had yet to decide whether or not to prosecute four out of these 103 subjects.

5. *In relation to cases that went before a criminal court, how many resulted in a conviction?*

Our data does not confirm the outcomes of the CPS decisions to prosecute provided under part 3 above. However, our outcomes reports contain separate data as to the results of criminal proceedings that took place in 2018/19 and 2019/20. Only some of these proceedings may relate to the decisions to prosecute we have reported in respect of the investigations we completed in each of these years. This is because there can be a significant time lag between the end of our investigation and any misconduct proceedings conducted by appropriate authorities or criminal cases prosecuted by the CPS, meaning that our investigations data (including CPS decisions) should not be compared with the proceedings data.

In 2018/19, the CPS brought criminal proceedings against nine police officers and one staff member following an IOPC investigation. These proceedings resulted in five guilty verdicts (or pleas) and five not guilty verdicts.

In 2019/20, the CPS brought criminal proceedings against 24 police officers and two staff members following an IOPC investigation. These proceedings resulted in eight guilty verdicts or pleas and 18 not guilty verdicts.

You also say:

*“It is appreciated that a case initiated in one year may not have a conclusion until the following year therefore the data related to the decision and referral to the CPS should all relate to the calendar year in which the decision was made.”*

We have understood this as requesting that our data in relation to referrals to the CPS and their subsequent outcomes be separated according to the year in which the IOPC decision to refer was made.

IOPC referrals to CPS are usually made soon after the decision to make the referral, so that the referral to CPS would be likely to be made in the same reporting year unless the decision was made late on in that year. We have not compiled data on the interval between the IOPC decision and referral.

We would have to carry out further searches of our data before we could provide information as to the subsequent outcomes of the CPS referrals we made in any particular year. The estimated time it would take us to carry out these searches could be added to our calculation on whether the FOIA cost limit was exceeded.

Our published reports consist of data from two different datasets relating to the outcomes for individual subjects in each year: investigations completed (including IOPC post investigation decisions on case to answer for misconduct and referrals to CPS) and the outcomes of misconduct or criminal proceedings.

	<p>In some cases, proceedings conclude months or years after our investigation has been finalised with the result that only some of the misconduct or criminal proceedings completed in a reporting year would relate to the subjects of an IOPC case to answer or CPS referral decision in the same year.</p> <p>Therefore our published data does not confirm the number of CPS referrals made by the IOPC in a particular year that led to conviction or acquittal at trial in the same or subsequent years and we are not obliged to provide this particular data under the FOIA.</p>
<p><b><u>Ref</u></b> <b><u>1009425</u></b> <a href="#">Back to top</a></p>	<p><b><u>Accrington incident investigation file</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>In relation to an IOPC independent <a href="#">investigation</a> following an incident in Accrington, you requested the following information:</i></p> <p><i>“Presumably the IOPC keep various internal records relating to completed investigations (eg investigation summaries and findings/details of interviews with relevant parties etc). Please provide copies (redacted as required) of any and all such documents relating to this particular investigation.</i></p> <p><i>Please also provide copies of all correspondence (redacted as required) between the IOPC and Lancashire Constabulary regarding this particular investigation.”</i></p>
<p><b><u>Response</u></b></p>	<p>We understand that this is essentially a request for the entire case file relating to this investigation including all correspondence and underlying evidence.</p> <p>This investigation is now complete and we are currently in the process of preparing a summary of the investigation and our findings for publication in line with our <a href="#">Publication Policy</a>.</p> <p>We have decided that you are not entitled to the full case file because it is exempt under sections 30 and 40 of the FOIA.</p> <p>In the case of information falling within the terms of section 30, we are refusing your request because the public interest in maintaining the exemption outweighs the public interest in disclosure.</p> <p>A publication decision has been made to produce a summarised version of the investigation report which will result in significant details of this case being placed into the public domain on our website in line with our <a href="#">publication policy</a>. It is highly likely, therefore, that the public interest in being properly informed about this case will be met by this disclosure.</p> <p>We consider this will 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. The level of redaction required to prepare all documents, evidence and correspondence for disclosure under the FOIA would result in information so heavily edited as to make it difficult to read and follow and would not leave the</p>

	public any better informed about this case than the summary which is currently being worked on to prepare it for publication.
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