

FOI Disclosures December 2022

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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.

Ref 5023781 Back to top	<u>Operation Hotton report</u>
<u>Request</u>	<p>I would like to request the below information in accordance with the freedom of information act:</p> <ul style="list-style-type: none">- The full investigation report in relation to Operation Hotton, redacted to remove personal data.- The Misconduct Hearing record, including the hearing bundle, again redacted to remove personal/identifiable information.- Where no Hearing was directed, the full rationale, and decision makers name for the decision not to refer those officers to misconduct hearings.
<u>Response</u>	<p>We have decided that we are not obliged to disclose information in relation to the first part of your request by virtue of exemptions 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>The second part of your request is for “<i>the Misconduct Hearing record, including the hearing bundle</i>”. Whilst we hold some information that is relevant to your request, it is significant to note that it was the Metropolitan Police Service that was responsible for the bringing of the misconduct proceedings. We will only hold information by virtue of our status in those proceedings and therefore are unlikely to hold the entire record or hearing</p>

	<p>bundles. You are, therefore, advised to redirect this part of your request to the Metropolitan Police Service.</p> <p>In respect of any relevant information we hold regarding the misconduct proceedings, we consider that this material is intrinsically linked to each individual subject to those proceedings and as such is classed as their personal data. As such we are refusing to disclose this information by virtue of an exemption at section 40(2) of the FOIA.</p> <p>In response to part three of your request, we can confirm that 14 officers (some of whom had ceased to serve with the police prior to or during the investigations) were investigated as part of Operation Hotton. Of these, 5 faced misconduct proceedings. The Decision Maker on behalf of the IOPC was Operations Manager Adam Stacey.</p> <p>We have decided that we will not disclose further information relating to the detailed rationale regarding these decisions because such data constitutes the personal data of the officers about whom such decisions were made. As such we consider this is exempt information by virtue of section 40(2) of the FOIA.</p>
<p><u>Ref</u> <u>5023872</u> Back to top</p>	<p><u>Investigation report relating to the murder of Bijan Ebrahimi</u></p>
<p><u>Request</u></p>	<p>I'd like to request a copy of the IPCC report relating to the murder of Bijan Ebrahimi on the 14th of July 2013</p>
<p><u>Response</u></p>	<p>The investigation report relating to Bijan Ebrahimi was published on the IPCC website and can now be found in PDF format on the National Archives website via the following link: https://webarchive.nationalarchives.gov.uk/ukgwa/20180301161130/https://www.ipcc.gov.uk/cy/node/22127</p>
<p><u>Ref</u> <u>5023833</u> Back to top</p>	<p><u>Police complaints and referrals</u></p>
<p><u>Request</u></p>	<ol style="list-style-type: none"> 1. <i>How many complaints did you receive directly from members of the public, or their representatives, about Police Forces, or their staff?</i> 2. <i>• How many complaints did Police Forces refer to you?</i> 3. <i>How many complaints did you refer back to Police Forces to pick up and investigate directly with the complainant?</i> 4. <i>How many complaints did you accept to take on from Police Forces?</i> 5. <i>How many complaints were upheld by the IOPC against Police Forces or their staff?</i>
<p><u>Response</u></p>	<p>1. All complaints must be made to the relevant police force or local policing body. Once a complaint has been received by the body responsible for the initial</p>

handling it should be logged on their systems and a decision will be taken whether the complaint should be recorded under Schedule 3 to the Police Reform Act 2002 or if it can be resolved outside of Schedule 3. Most of these complaints are dealt with by the police themselves, or by the local policing body.

Complainants may also send their complaint directly to the IOPC and our role is then limited to passing the matter on to the relevant police force so they can consider whether it should be formally recorded. It is important to note, therefore, that direct complaints made to the IOPC account for only some of the complaints recorded by the police service each year. We do not know how many of the matters we pass on to forces are recorded and processed under the legislation. In general, the IOPC has no further involvement in the complaints it receives from members of the public and records only minimal information about them.

Complaints submitted by means of our online complaint form are automatically referred by the system to the relevant police force without any human involvement. We do not retain any details about the nature of the complaints made to us using this facility.

Further information about making complaints is available on [this page of our web site](#).

We can confirm that in the period from 1 January 2022 to 14 November 2022, 2,475 complaints were received from members of the public and re-directed to the relevant police force for a recording decision.

The IOPC produces annual statistics on the complaints logged by forces and how they deal with them. We would refer you to this page of our website: [Police complaints statistics | Independent Office for Police Conduct](#)

2. Police forces are required to refer certain incidents to the IOPC regardless of whether there has been a complaint. These referrals originate from one of three possible sources: a public complaint, a death or serious injury matter (DSI), or a recordable conduct matter (RCM). A complaint can also be voluntarily referred to the IOPC, or the IOPC may 'call in' the complaint where it sees fit.

Owing to the way that the data about referral origins (i.e. whether they originate from a complaint, a DSI or a RCM) is stored in our case management system, it is not currently possible for us to provide a reliable report on how many of these referrals originate from any one of these three categories. This is the result of complexities with the data relating to cases where more than one referral has been received. Consequently, it would be possible to provide information as to the number of complaint and recordable conduct matter referrals only by manually searching through each referral on our system and identifying the referral origin using the relevant documentation. In many cases this may require an assessment of the surrounding papers, since the referral form itself may not confirm the type of referral, or may have been completed incorrectly and revised following correspondence with the IOPC.

In addition, an incident referred as a DSI matter, which by definition should not disclose any misconduct, may later give rise to a complaint or recordable conduct matter, which may or may not then meet the criteria for referral to the IOPC. This illustrates that a single incident or allegation can result in several referrals. Section 12(1) of the Freedom of Information Act sets out that a public authority need not disclose data requested if the authority estimates that the cost of

complying with the request would exceed the appropriate limit. Regulations set out that the appropriate limit for the IOPC is £450. Time for staff to undertake manual searches to locate, identify and retrieve information is calculated at £25 per hour. This means that the limit is 18 hours.

The IOPC received 4,986 referrals from police forces in the period from 1 January 2022 to 14 November 2022. This means that we could produce the data you require under this part of your request only if it was possible to determine the referral type in each case within about 12 seconds. We estimate, therefore, that these searches would exceed the 18 hour cost limit under section 12 of the FOIA by a significant margin.

3 and 4. We have understood these parts of your request as seeking data relating to our mode of investigation (MOI) decisions on complaints referred to us by the police.

We are not obliged to provide this data in regard to complaint referrals specifically for the reasons given above; however, we are providing data for all referrals. In the period from 1 January 2022 to 14 November 2022, the IOPC received 4,986 referrals from police forces. The following table gives a breakdown of our MOI decisions on these referrals.

Mode of investigation decision	Number
Independent investigation	381
Directed investigation	41
Managed investigation	2
Supervised investigation	10
Local investigation	3,031
Return to force	1,382
Pending	88

- 51 of the referrals received were deemed to be invalid.

Please note that the MOI decision is made on completion of the referral and therefore may not have been made in the same time frame in which the referral was received. Therefore, some referrals received more recently may still be awaiting a decision and are shown in the figures as 'pending'.

In addition, the number of MOI decisions on referrals does not equal the number of investigations started in respect of this referrals owing to re-referrals and linked cases in relation to the same or related matters.

Information about referrals and mode of investigation decisions can be found in Chapter 9 of the IOPC's [Statutory Guidance on the complaints system](#).

5. We do not hold this information because the IOPC does not make a determination as to whether a complaint is upheld.

Allegation decisions are recorded by police forces. Paragraphs 7.7 to 7.13 of our [Guidance on Capturing data about police complaints](#) provide guidance to the police on the recording of allegation decisions. Please note that one or more allegations may be recorded under a single complaint case.

	<p>It may help you to know that the IOPC has published independent investigation outcomes for 2018/19, 2019/20 and 2020/21 and will publish further outcomes reports annually. These reports contain data about the outcomes of IOPC investigations and associated proceedings completed in each of these years, including misconduct and criminal outcomes.</p> <p>National data relating to police misconduct is published by the Home Office in its Police Misconduct, England & Wales Official Statistics. This contains data relating to formal disciplinary proceedings and their outcomes and includes information about the complaints and misconduct process.</p>
<p>Ref 5023831 Back to top</p>	<p><u>Data Sharing Agreements with police forces</u></p>
<p><u>Request</u></p>	<p>I would like to make a FOI request for a copy of the data sharing agreement that the IOPC has with the MET related to complaints from the public.</p> <p>And also data sharing agreements that the IOPC has with any other police force too.</p>
<p><u>Response</u></p>	<p>We have understood 'data sharing agreement' as referring to the type of agreement described in the Information Commissioner's Office (ICO) guide to data protection: Data sharing agreements ICO</p> <p>We do sometimes enter into local agreements with specific forces as these can assist in ensuring that our respective statutory obligations on the sharing of information (see below) are carried out efficiently. An example of such an agreement is our Digital Record Sharing Memorandum of Understanding (MoU) with the Metropolitan Police Service. This applies to the sharing of digital evidence, including police body worn video, 999 calls, ABE (Achieving Best Evidence) or Video Recorded Interviews, CCTV and other third-party video material such as dashcam videos.</p> <p>There is, however, no formal data sharing agreement relating to the sharing of information between the IOPC and the police for the purposes of our core functions under the police complaints system. The duties of the IOPC and the police in relation to this sharing are defined in the Police Reform Act 2002 (PRA) and associated Regulations, meaning that there is no need for an overarching agreement.</p> <p>During the course of the handling of a complaint there are various stages at which information relevant to the complaint is shared between the IOPC and a police force in accordance with these rules.</p> <p>The duties of police forces to provide information to the IOPC are defined in section 17 of the PRA, which places a general duty on Appropriate Authorities to provide all such information or documents as may be specified in regulations or in a notification from the IOPC Director General. This means that where a matter is referred to the IOPC, for</p>

example for the purposes of a Review, the Appropriate Authority is obliged to provide the material relevant to that review.

Paragraph 2 of schedule 3 PRA addresses the initial handling and recording of complaints and states:

1. *Where a complaint is made to the [Director General] , [the Director General] shall give notification of the complaint to the appropriate authority.*

(1A) But the [Director General] need not give that notification if the [Director General] considers that there are exceptional circumstances that justify its not being given.]

....

(5) Where the [Director General], a [local policing body] or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3), the person who gave the notification shall notify the complainant—

(a) that the notification has been given and of what it contained

Paragraph 6.5 to 6.7 of the [IOPC's Statutory Guidance](#) relate to 'Directing complaints to the correct body' and confirm the action to be taken where the complaint is made to a force or local policing body (e.g. MOPAC) which is not the appropriate authority for the complaint. Paragraph 6.7 states:

"There is no requirement in the Police Reform Act 2002 for consent from the complainant to forwarding a complaint. However, the complainant must always be informed if their complaint has been sent to another body. They should also be informed of the content of what has been sent and the name of the body it has been sent to. In some cases, for example, where a complaint contains particularly sensitive data and the complainant has intentionally sent it to a particular body, or the complainant has expressed concern about sensitive information in their complaint being shared, consideration could be given to notifying the complainant in advance that this will happen."

This applies equally to a complaint made directly by a member of the public to the IOPC. As confirmed on the [Make a complaint page on our website](#), the IOPC has a legal requirement to pass the details of your complaint to the relevant police force. Our online complaint form states:

"Please note, all the contents of this form (including your equality and diversity information) will be passed to the relevant police force for them to record."

Ref
5023837

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Quashing of conviction of Gareth Head

Request

Please can you tell me if any IOPC staff/investigator was disciplined/is awaiting a disciplinary hearing or was prosecuted/is

	<i>being considered for prosecution in relation to your investigation and prosecution of Metropolitan police officer Gareth HEAD, who had his conviction for ABH quashed on the 10th of August 2022.</i>
<u>Response</u>	<p>We are refusing to confirm or deny whether we hold this information because your request engages the exemption under section 40(5B)(a)(i) of the FOIA. Our refusal applies the Information Commissioner's guidance regarding neither confirm nor deny in relation to personal data. As stated in that guidance, this exemption is not about the content of the requested information but concerns the disclosure of personal data by confirming or denying whether the requested information is held.</p> <p>We are refusing to confirm or deny after concluding that disclosure is not supported by any of the lawful bases under Article 6 of UK GDPR.</p> <p>You have not indicated why it may be in the public interest to release this information to the 'world at large' under FOIA and we have been provided with no evidence to suggest that a member of our staff should be held accountable for the bringing of the appeal or its outcome. We conclude, therefore, that compliance with the duty to confirm or deny under your request would not be in pursuance of a legitimate aim.</p> <p>We have decided that as none of the conditions required for processing this personal data are satisfied there is no legal basis for its disclosure. Therefore your request engages the exemption under section 40(5B)(a) because confirming or denying whether we hold any information would not be in accordance with the data protection principles.</p> <p>In reaching our decision we have taken into account not only the potential effects of responding to this request but also the importance of maintaining a consistent stance in relation to any similar requests that the IOPC may receive. A failure to provide consistent responses may result in the inadvertent disclosure of information in breach of the data protection principles because a change of stance between requests on a similar theme could itself be taken as indication that relevant information is held.</p>
<u>Ref</u> <u>5023838</u> Back to top	<u>Gareth Head conviction quashed – IOPC staff giving evidence</u>
<u>Request</u>	<i>Gareth Head's case has been quashed at the Court of Appeal, please could you provide the names of the IOPC member(s) of staff who gave evidence during the trial."</i>
<u>Response</u>	<p>We have decided that we are not obliged to disclose the information we hold under your request because it engages the exemption under section 40(2) of the FOIA. This 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 UK General Data Protection Regulation (UK GDPR).</p> <p>You are asking for the name(s) of the IOPC member(s) of staff who gave evidence when PC Head was tried for offences. This information relates to these</p>

	<p>individuals because it has biographical significance for them and they would be identified by name if we complied with your request.</p> <p>You have not indicated why it may be in the public interest to release this information to the 'world at large' under FOIA and we have been provided with no evidence to suggest that a member of our staff should be held accountable for the bringing of the appeal or the outcome of it.</p> <p>There is, however, a wider legitimate interest in disclosing the names of IOPC employees who have given evidence in criminal trials since this would serve the interests of transparency and open justice.</p> <p>We must therefore consider whether this legitimate aim could be achieved by means that interfere less with the privacy of the data subjects.</p> <p>These proceedings were held in public. Any member of the public or journalist could have attended the hearings at the time and, if it was not convenient to do so, a member of the public could access this information through other means. We find that the legitimate interest in transparency and open justice is achieved by the existing routes of access to the courts and their decisions. It is not necessary, for those purposes, to also disclose this particular information to the world via FOI.</p> <p>We conclude that there is no Article 6 lawful basis for disclosure, with the result that we are entitled to rely on section 40(2) to withhold this information.</p>
<p><u>Ref</u> <u>5023840</u> Back to top</p>	<p><u>IOPC staff giving evidence at Gareth Head trial</u></p>
<p><u>Request</u></p>	<p><i>Please could you tell me the name of the person employed by the IOPC, including their role, who gave evidence against PC Gareth Head at his original trial, and also his subsequent retrial, which concluded on 1st March 2022.</i></p>
<p><u>Response</u></p>	<p>We have decided that we are not obliged to disclose the information we hold under your request because it engages the exemption under section 40(2) of the FOIA. This 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 UK General Data Protection Regulation (UK GDPR).</p> <p>You have not indicated why it may be in the public interest to release this information to the 'world at large' under FOIA and we have been provided with no evidence to suggest that a member of our staff should be held accountable for the bringing of the appeal or its outcome.</p> <p>There is, however, a wider legitimate interest in disclosing the names of IOPC employees who have given evidence in criminal trials since this would serve the interests of transparency and open justice.</p> <p>These proceedings were held in public. Any member of the public or journalist could have attended the hearings at the time and, if it was not convenient to do so, a member of the public could access this information through other means. We find that the legitimate interest in transparency and open justice is achieved</p>

	<p>by the existing routes of access to the courts and their decisions. It is not necessary, for those purposes, to also disclose this particular information to the world via FOI.</p> <p>We conclude that there is no Article 6 lawful basis for disclosure, with the result that we are entitled to rely on section 40(2) to withhold this information.</p>
<p><u>Ref</u> <u>5023857</u> Back to top</p>	<p><u>Complaint and outcome statistics</u></p>
<p><u>Request</u></p>	<p><u>1: Please provide the total number of complaints received by the IOPC against the Police for the last three years?</u></p> <p><u>2: Please provide the total number of complaints received for the past three years that included allegations of criminal conduct and the number upheld</u></p> <p><u>3: Please provide the total number of complaints received in the last three years that only involved conduct complaints and the number upheld?</u></p> <p><u>4: Please provide the total number of complaints upheld by the IOPC which resulted in criminal investigations and or prosecutions?</u></p> <p><u>5: Please provide the total number of complaints upheld by the IOPC that resulted in 'Misconduct' hearings?</u></p>
<p><u>Response</u></p>	<p>Your questions regarding police complaints and outcomes can be answered using the reports that are published on our website relating to police complaints statistics and IOPC independent investigation outcomes. We have provided links to the relevant publications below.</p> <p>Question 1: Complaints about the conduct of police officers are received and recorded by the relevant police force in the first instance . If complaints are sent directly to the IOPC then our role is limited to forwarding them to the force to assess and handle as appropriate. We have interpreted this part of your request to be for the number of complaints made about the police for the past three years. We collect statistical information from police forces in respect of the complaints that they receive and produce an annual report which is published on our website. The latest report can be found here: IOPC Police Complaints Statistics 2021/22 (policeconduct.gov.uk) and reports for the previous two years are available on this page of our website: Police complaints statistics Independent Office for Police Conduct Table 1 shows the total number of complaints recorded.</p> <p>Questions 2 and 3: Table 23 of the Police complaint statistics report: IOPC Police Complaints Statistics 2021/22 (policeconduct.gov.uk) provides details of the outcomes and actions taken on closed complaint cases. You may also wish to refer to the IOPC's Outcomes Report : Outcomes Report 2021/22 (policeconduct.gov.uk) which reports on misconduct proceedings and criminal outcomes following IOPC independent investigations. IOPC Outcome Reports for</p>

the previous years can be found on this page of our website: [IOPC independent investigations outcomes | Independent Office for Police Conduct](#)

Questions 4 and 5: This information can be found in the IOPC outcomes reports published on our website here: [IOPC independent investigations outcomes | Independent Office for Police Conduct](#)