

**Date:** 04 February 2022

**Our Reference:** FOIA-2022-007

## **RE: Freedom of Information Act 2000 Request**

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 14 January 2022 in which you requested the following information:

### **Request**

I am writing to enquire what, if any, changes the College of Policing have made to their guidance for police services since the judgement in the case *Commissioner of Police of the Metropolis v DSD and Another* [2018] UKSC 11. The case, broadly speaking, has set the precedent that police services have a duty to effectively investigate serious offences (i.e., sexual offences and serious violence) committed by a perpetrator under Article 3 of the European Convention on Human Rights. Where they fail to do so, and these police failings amount to substantial and significant errors, the victim of crime can now sue the police for compensation.

If there have been changes made to guidance, please indicate what these are and attach any relevant and available documentation regarding these changes.

If there have not been any changes, please indicate why this is the case.

Further, I ask if the College of Policing are aware of any claims launched through this route since the judgement, either in connection with a police service or involving the College of Policing. Please provide any details possible if so.

Finally, has the College of Policing developed or adapted any training to include discussion of the judgement in the case *Commissioner of Police of the Metropolis v DSD and Another* [2018] UKSC 11 or the implications of said judgement? If so, how so? If not, why not?

## Decision

After conducting careful searches relating to your request, I can confirm there is information held in relation to some parts of your request and I have addressed each question in turn below.

**If there have been changes made to guidance, please indicate what these are and attach any relevant and available documentation regarding these changes.**

An updated version of the Operation Hydrant Senior Investigating Officer (SIO) advice was published in August 2020. In relation to the case referenced above, there were changes made to paragraph 3.2.2 (Decision to investigate) and a direct reference to the case is now included. You can access the updated version of the advice here: [SIO-advice-August-2020.pdf \(college.police.uk\)](#). For reference, the previous advice published in November 2016 is publically available at the following link [Operation Hydrant SIO advice \(npcc.police.uk\)](#).

The judgment is also being written into the new Authorised Professional Practice (APP) process on Investigation. However this is being withheld under section 22 of the FoIA 2000 as it is intended for future publication.

Section 22 states:

(1) Information is exempt information if—

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
- (b) the information was already held with a view to such publication at the time when the request for information was made, and
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a)

The APP is still at a drafting stage and will be subject to public consultation before final publication. I recognise that there is a public interest in the advice and guidance given to police forces on this issue, and in ensuring that it remains consistent with changes to both legislation and case law. However this must be balanced with the risk of publishing information that has not yet been finalised. Publishing draft guidance that has not yet been through internal processes such as legal validation, or external public consultation, risks misleading officers and the wider public as to what that final guidance will be. Taking all of this into account, I consider that the public interest lies in withholding the information at this stage. In line with section 22(c) I also consider it to be reasonable in all the circumstances that this information be withheld from disclosure until it is published, for the reasons as stated above.

Please be advised that while there is a settled intention that this APP will be published for public consultation, a date has not yet been set for the consultation to take place.

**If there have not been any changes, please indicate why this is the case.**

Please see response to previous question.

**Further, I ask if the College of Policing are aware of any claims launched through this route since the judgement, either in connection with a police service or involving the College of Policing. Please provide any details possible if so.**

No information held.

**Finally, has the College of Policing developed or adapted any training to include discussion of the judgement in the case Commissioner of Police of the Metropolis v DSD and Another [2018] UKSC 11 or the implications of said judgement? If so, how so? If not, why not?**

Discussions in the Senior Investigating Officer Development Programme will reflect changes brought about by the judgment, and the subsequent changes to the APP will also be reflected in initial and detective the training. The case itself however is not specifically referenced in the curriculum.

I trust this letter answers your questions. Your rights are provided in **Appendix A**.

Yours sincerely,

**Sarah Lawrence | Legal Advisor  
Information Management and Legal Team  
College of Policing**

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Website: [www.college.police.uk](http://www.college.police.uk)

## **Appendix A**

### **Rights**

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: [FOI@college.pnn.police.uk](mailto:FOI@college.pnn.police.uk)

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

### **The Information Commissioner**

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

**Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**

**Phone: 0303 123 1113**