

Date: 21st September 2022
Our Reference: FOIA-2022-081

RE: Your request for information under the Freedom of Information Act 2000 (“FOIA 2000”)

I write in response to your Freedom of Information Act 2000 request dated **26th August 2022** in which you requested the following information:

Under the freedom of information act 2000 I require the following information below from the College of Policing;

- What date did the College discuss officers first discuss the Police NCHI policy.
- What date did the College decide to implement the Police NCHI policy.
- Which individual officer name and rank introduced it. (it is always one person who has an idea)
- Which officers present by name and rank discussed and approved the NCHI guidance proposal including the date of the same.
- When did the officers (if the same) inform the public of their decision, date, and how it was imparted to the public. If not the same original group of officers please add their names and ranks.
- If any lawyers were involved please supply all their names in full.
- Did any senior officers at the meetings oppose the NCHI name and rank please.

When a request for information is made under FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant.

Decision:

In line with section 1(1) of FOIA 2000, I can confirm that there is some information held. We have dealt with each part of your request separately below:

What date did the College discuss officers first discuss the Police NCHI policy.

The Police NCHI policy pre-dates the College of Policing:

- Following the Crime and Disorder Act 1998, Association of Chief Police Officers (ACPO) issued a good practice guide on the police response to racial incidents in April 1998. The guide set out policy and procedures for dealing with racist incidents. The guide was reviewed and published as a manual of guidance in 2000. This was the first ACPO manual on hate crime it defined a hate crime and a hate incident (NCHI), it also set out perception-based recording, which is referenced from Racial Incidents in volume 311 of Hansard debated on 30th April 1998 [Racial Incidents - Hansard - UK Parliament](#)
- The Home Office Policing Standards Unit and ACPO reviewed and published hate crime guidance for policing in 2005, Hate crime: delivering a quality service, Good practice and tactical guidance.
- When the College was founded in 2012, staff were already reviewing and refreshing the 2005 guidance, and this was published in 2014.

What date did the College decide to implement the Police NCHI policy.

The Police NCHI policy pre-dates the College of Policing and the refresh of the 2005 guidance was transferred to the College when it was founded in 2012. The policy was founded on the ACPO policy but also the Stephen Lawrence Inquiry Report and the Equality Act 2010 that created a public sector equality duty and set out 'protected characteristics'. It also reflects legislation on sentencing for crimes motivated by hate.

Which individual officer name and rank introduced it. (it is always one person who has an idea)

No information held – the original document on which the policy was based was developed by ACPO.

Which officers present by name and rank discussed and approved the NCHI guidance proposal including the date of the same.

The refresh of the Hate Crime Operational Guidance that was published by the College in 2014 underwent all usual quality assurance and approvals that were required at the time.

When did the officers (if the same) inform the public of their decision, date, and how it was imparted to the public. If not the same original group of officers please add their names and ranks.

The document was published on the College website and has been continuously available since that time

If any lawyers were involved please supply all their names in full.

The document was subject to legal checking at the time by the College legal team.

Did any senior officers at the meetings oppose the NCHI name and rank please.

No information held.

We have provided you with all information that we have on the subject and applied S40(2) in not providing personal data.

Section 40(2) of the Freedom of Information Act 2000 – Personal Information

Section 40(2) FoIA states:

“Any information to which a request for information relates is also exempt information if-

- (a) It constitutes personal data which do not fall within subsection (1), and
- (b) Either the first or the second condition below is satisfied.”

Essentially, under section 40(2) FoIA (by virtue of section 40(3A)), personal data of a third party can be withheld if any of the data protection principles would be breached by disclosing that data. Personal data is defined in section 3(2) of the Data Protection Act 2018 (DPA) as being:

“Any information relating to an identified or identifiable living individual”.

Section 3(3) DPA defines an identifiable living individual as:

“a living individual who can be identified, directly or indirectly, in particular by reference to –

- (a) an identifier such as a name, an identification number, location data or an online identifier,
- or
- (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual”.

Under section 40(2), we have withheld personal details in regards to your request to prevent personal data from being released into the public domain. Names, etc. have not been provided as they would otherwise lead to the direct identification of living individuals.

The data protection principles are provided under Article 5 of the General Data Protection Regulations 2018 (GDPR). Article 5(1)(a) states that personal data shall be: “processed lawfully, fairly and in a transparent manner in relation to the data subject”. We are committed to openness and transparency and recognise the wider public interest in full disclosure of College documents. However, we also have a legal duty to ensure that the rights to privacy of individuals are protected and we do not believe that it would be fair to disclose the requested information.

We consider that the disclosure of the redacted information would not be fair, lawful or transparent and would therefore breach the first data protection principle under Article 5(1) (a) GDPR.

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

Yours sincerely,

S Kaur
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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 our original response, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email [**FOI@college.police.uk**](mailto:FOI@college.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's Office (ICO)

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, you can contact them by telephone or write to them at the following address:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113