

**IN THE MATTER OF THE INDEPENDENT
INQUIRY INTO CHILD SEXUAL ABUSE,
WESTMINSTER INVESTIGATION**

CLOSING SUBMISSIONS

**INDEPENDENT OFFICE
FOR POLICE CONDUCT**

1. The Independent Office for Police Conduct ('IOPC') is grateful for this opportunity to provide written closing submissions.
2. In making these submissions, the IOPC intends to assist the Inquiry by providing relevant clarification and explanation. The IOPC's focus is informed by the oral submissions made on behalf of other Core Participants during the hearing, and the questioning by Counsel to the Inquiry. For ease of reference, we have grouped the submissions into five categories. We deal with each, in turn, below.

(I) Deference

(a) Deference within the police service as an organisation

3. As both Mr Mahaffey and Commander Roper set out in their evidence, and as is reflected in the IOPC Overview Report, the police service is indisputably a hierarchal organisation; there is a clear rank structure and chain of command. Police officers are required to follow lawful orders, and certain decisions are statutorily required to be made by officers of a specified rank. Whilst this may lead to concerns regarding deference, such a structure is essential to the proper functioning of the police service; enabling appropriate oversight and management.
4. The law recognises that any 'deference' resulting from the hierarchical structure and requirement to follow lawful orders must, however, be kept within appropriate limitations. Officers of all ranks are duty bound under the Police (Conduct) Regulations 2012 to report improper conduct. On a practical level, steps are taken within the police service, and by the IOPC, to ensure that officers feel confident about reporting wrongdoing. In her evidence on Days 2 and 12 Commander Roper set out the different mechanisms that have been introduced to encourage reports of wrongdoing in the Metropolitan Police Service ('MPS'), and the questioning of decisions. Whilst the IOPC recognises that there is no room for complacency here, and that ongoing work is required to ensure that officers of all ranks are suitably

empowered in this regard, the evidence heard by the Inquiry suggests that the modern culture may be very different from that which pervaded in the past.

5. Based on its own investigations, the IOPC cannot offer any full or independent view on deference as part of policing culture three or four decades ago. This was not the focus of its investigations, the majority of which have encountered evidential difficulties, and which have in almost all cases led to the conclusion that there is insufficient evidence of police misconduct. Nor has the IOPC carried out any research into the prevailing culture in the MPS and other forces during the 1970s and 1980s - such an exercise would not be within the proper remit of the IOPC.
6. However, the IOPC has listened carefully to the evidence provided to the Inquiry and notes that of Howard Groves in particular, who on Day 3 stated: *"in the 80s, you did what you were told to do"*¹, and that there was very much a culture of deference at the time, but that this dissipated through the course of his career. Mr Mahaffey reflected on Day 2 that: *"historically it is likely that officers... didn't see it was their position to challenge any such decision. ... [I]t probably was the case where more junior officers didn't think it was their place to challenge or question any decision made by a more senior officer. I think that's changed considerably"*.²
7. The Inquiry may seek to express a view as to the extent to which a deferential culture permeated through the police service during the relevant time-period, and comment as to the appropriateness of this. The IOPC is confident that the Inquiry will take into consideration all of the available evidence should it choose to do so.

(b) Deference towards persons of public prominence

8. Concern that police investigations were or would have been inappropriately shut down due to the actual or anticipated implication of a person of public prominence was a central theme of the IOPC's investigations, giving rise to the question of whether this was symptomatic of systemic deference towards persons of public prominence during the relevant period.
9. The IOPC has not to date identified sufficient corroborative evidence of any investigation being improperly shut down due to the actual or potential involvement of a prominent person. Further, the extent to which any potential examples of such deference may be isolated (alleged) incidents or representative of a wider culture is unknown.

¹ Day 3, page 16, lines 23-24.

² Day 2, page 40, lines 11-21. Mr Scorer was therefore wrong to suggest as he did in oral closing, that Mr Mahaffey had denied that such a culture existed (Day 14, page 29, lines 4-6 and page 30, lines 8-11).

10. There were examples of police investigations, believed to have been closed prematurely, which in reality had been successful, such as in Operations Chalk, Jordana and Redrail 2. Whilst it may be considered that officers' presumptions that these matters had been inappropriately closed is itself indicative of broader inappropriate practice, such considerations can only be speculative. In this context, the IOPC notes the powerful effect of rumour and intrigue in a work environment where communication with junior ranks was not what it is today, a matter reflected upon in the IOPC Overview Report and the evidence of Commander Roper. In this respect reference is also made to the evidence of Howard Groves in which he stated that in the 1980s; *'you would do your bit, but you had no clue what other people were doing'*.³ When asked about investigations where more junior officers suggested or reported, years later, that an investigation of a prominent person was taken away from them and they assumed it had been stopped, when in fact the IOPC established that it was transferred and carried on properly, Mr Mahaffey replied: *"Perhaps the apparent deference or hierarchical structure didn't facilitate good communication at the time"*.⁴
11. In his oral closing, Mr Scorer stated of Mr Mahaffey and Commander Roper, *'not only did both officers fail to acknowledge the culture of deference which plainly existed during the period under examination but they also gave evidence which suggests that they may themselves, however unwittingly, be continuing to operate within a culture of deference today'*.⁵ In relation to the issue of deference towards superior officers, this criticism is both inaccurate and unfair for the reasons set out at paragraphs 3 to 7 above. Nor does the IOPC accept this criticism on the issue of deference towards persons of public prominence, as detailed below.
12. As set out at paragraphs 9 and 10 above there was insufficient evidence in the investigations carried out by the IOPC for it to draw any conclusion about *past* deference towards persons of public prominence.
13. The Inquiry has, however, heard evidence which *is* supportive of a deferential approach being taken towards some persons of public prominence, which could be reflective of a widespread deferential culture in society generally at the time. In particular, there was the evidence of Howard Groves (Day 3), Paul Holmes (Day 4), Lord Taverne (Day 2), and evidence heard about the approach taken in respect of Victor Montagu and Peter Hayman.
14. In his evidence, Mr Mahaffey referred to differences in approach that may be adopted when considering the arrest of a person of public prominence. The IOPC is **very clear** that any such

³ Day 3, page 20, line 25 to page 21, line 1.

⁴ Day 2, page 42, lines 13-14.

⁵ Day 14, page 30, lines 8-14.

differences **must not include** a difference in the evidential burden to be applied before such a decision is made. Framed simply, it must not be less likely that a person of public prominence will be subject to arrest or investigation than another person due to their status, when the evidential position is the same.

15. However, the IOPC does note that there may be some differences in *approach* when dealing with persons of public prominence, such as: (i) the involvement of more senior personnel; (ii) heightened conditions of confidentiality around an investigation; (iii) the potential impact on victims and witnesses, and how this should be handled; and (iv) the establishment of a media strategy. A different approach may be called for either where a person is already of public prominence, or where they are likely to become one as a result of their alleged involvement in the matter under investigation. Where required, this should simply reflect the practical reality of the situation.
16. The findings of Sir Richard Henriques in his *‘Independent Review of the Metropolitan Police Service’s handling of non-recent sexual offence investigations alleged against persons of public prominence’* are also relevant here, as considerations regarding the potential impact of criminal allegations on persons of public prominence are explored, (although several of the issues identified may also affect, for example, those who come to prominence as a result of allegations being made).
17. Where publicity has been given to a person in connection with an alleged crime, or that person is otherwise publicly known, there is also a risk that a victim may misidentify that person as the perpetrator of the crime against him – as is demonstrated by Operation Spruce. The IOPC Report further reflects that a majority of the allegations surrounding police misconduct or malpractice and child sexual abuse which were investigated by it were not made until 2014/2015, by which point several names of persons of public prominence were already in the public domain in association with child sexual abuse.
18. So far as the IOPC is concerned, the fundamental points of principle are that: (i) at no point should a different standard be applied with respect to the pursuit of the criminal investigation; (ii) it must be no less likely that a person of public prominence will be subject to criminal proceedings; and (iii) any consequences following criminal investigation must be no less severe due to the fact that a person is of public prominence.

(II) Matters Arising from Evidence Heard in the Inquiry

19. Representatives of the IOPC were present throughout the Inquiry hearing, and paid close attention to the evidence adduced and submissions made. As indicated by Mr Mahaffey in his evidence on Day 12, and also in the IOPC's oral closing, the IOPC is now undertaking a review of the evidence in order to assess whether it would be appropriate for: (i) any of the investigations to be re-opened; and/or (ii) any new investigation(s) to be commenced. The IOPC will liaise with the MPS in respect of these matters. The IOPC will also consider the written closing submissions of other core participants and any communications made by the Inquiry.
20. The IOPC will ensure that the Inquiry is kept updated in respect of this work. The following sets out the steps that have been taken thus far in this regard. The IOPC will also liaise with the Inquiry in respect of IOPC use of documents disclosed through the Inquiry processes.
- (a) Operation Beech
21. On Day 4 the Inquiry heard evidence from Malcolm Sinclair and Paul Holmes which may be corroborative of evidence provided by Robert Glen, whose allegations were investigated in Operation Beech.
22. The IOPC has commenced a review of this evidence, in order to determine whether Operation Beech should be re-opened, a new investigation commenced, or no further action be required. An investigator's report has already been produced to this end, and the IOPC will endeavour to complete this review shortly.
23. However, the IOPC wishes to address two criticisms levied by Mr Scorer in his closing submissions, namely the alleged '*failure on the part of the IOPC to identify the corroboration that Paul Holmes had provided to the Inquiry*'⁶ and the additional alleged failure to open an investigation into his claims and interview him thoroughly.⁷ For the avoidance of doubt: (i) the IOPC was not aware of Paul Holmes' evidence (or that of Malcolm Sinclair) until the Operation Conifer Supplementary Report was supplied to it by the Inquiry on 5 February 2019 in the context of ongoing correspondence between the IOPC and the Inquiry regarding redactions; and (ii) the IOPC was not provided with a copy of those witness statements until they were released through Inquiry disclosure on 8 February 2019.
24. In his evidence, Mr Mahaffey explained that '*they [Operation Winter Key] have made every effort to interview everybody named by the person making the initial allegation*'.⁸ Neither Mr Holmes nor Mr Sinclair was named by Mr Glen (as acknowledged by him in evidence on Day

⁶ Day 14, page 31, line 25 to page 32, line 2.

⁷ Day 14, page 32 lines 3-4.

⁸ Day 2, page 30, line 25 to page 31, line 1.

3); hence their not being interviewed as part of the IOPC managed investigation. The IOPC is confident that if it had been notified of the relevance of these individuals during the course of the investigation, contact would have been made and accounts obtained.

25. The IOPC was informed by the MPS in February 2018 that Wiltshire Police held information that might be of assistance to Operation Beech, and therefore it was agreed that information could be shared by the MPS. However, the IOPC was not informed by the MPS that any relevant documentation was obtained in consequence of this, and at no point was this issue raised with the assigned IOPC investigator.

26. The IOPC also refutes Mr Scorer's further criticism in relation to the IOPC's conduct regarding the complaints raised by Paul Holmes, namely; *'part of the reason why his evidence may have been overlooked may have been because he was interviewed over the telephone rather than face to face'*.⁹ The IOPC reiterates that it did not interview Mr Holmes, over the telephone or otherwise, for the reasons outlined above. The IOPC understands that Wiltshire Police interviewed Mr Holmes over the telephone due to the location of his place of residence.

(b) Operations Conifer and Sycamore

27. The IOPC listened carefully to the evidence of Mr Foulston and Mr Collins during the Inquiry. Neither of these investigation reports has yet been finalised, and a review is currently being undertaken as to whether any further work is required, which includes a review of the witness evidence referenced. At this stage, no specific further lines of enquiry have been identified, but communications are ongoing between the IOPC and the MPS in exploration of this. Consideration is also being accorded to the possible overlap between the operations in view of their temporal proximity.

(c) Operation Hawthorn

28. During his evidence to the Inquiry, Mr Hale made significant criticisms of the MPS and the IOPC. In doing so, Mr Hale at times confused the MPS and the IOPC, and to be clear, the 46 emails he referred to were sent to and from the MPS.

29. Mr Hale stated in his written witness evidence that these 46 emails *'counter the false claims and statements by in the closing report by the IPCO [sic]*'. The IOPC has considered the same and notes that the emails are largely concerned with making arrangements for Mr Hale to be interviewed and to provide a statement. However, having closely scrutinised Mr Hale's witness

⁹ Day 14, page 32, lines 11-13.

statements (OHY005512, OHY005511, OHY005507) and the 46 emails referred to in his witness statement of 18 March 2019 (INQ004202), and having compared the contents to the IOPC closing report for Operation Hawthorn (IPC000843), the IOPC notes the following:

(i) Comments regarding the cleaner:

30. There is an error in the Operation Hawthorn Report at paragraph 55 which incorrectly states '*in S2 [statement two] he said he was not aware if the cleaner was there*'. Mr Hale's second statement does not in fact make reference to the cleaner at all. However, the report then proceeds to explain that Mr Hale is quoted in the CRIS report (page 90) on 5 December 2016 as stating that he does not know who the cleaner was, that he cannot recall her name or if she was even there. This is consistent with the email from Mr Hale as received by the MPS on 2 December 2016 (page 14 of INQ004203).

(ii) Comments regarding the photocopying of Barbara Castle's documents:

31. The IOPC recognises that there is an inconsistency between Mr Hale's witness statements and the closing report for Operation Hawthorn when compared to Mr Hale's email as per INQ004203. Mr Hale's first witness statement states that he '*copied a number of documents and retained them*'; his second statement does not make mention of his copying any of the documents. Having been provided with a draft copy of his third statement Mr Hale sent the MPS an email on 23 February 2017 in which he stated '*it [his third statement] says I did NOT make any photocopies of the documents. I DID however make several photocopies at Barbara's request as she retained the originals*'. In a later email he confirmed '*yes I can confirm that NO other copies were made by me*'. However, despite this his third signed statement dated 27 February 2017 read '*I did not make any photo copies of any of the documents... again I wish to state that no copies were made of any of the documents that she handed to me*'.
32. The IOPC does not consider any of the matters summarised at paragraphs 30 and 31 above to be material to the decisions made during and following this investigation, whether taken individually or cumulatively. Accordingly, they do not provide sufficient reason for Operation Hawthorn to be re-opened.

(d) Operations Hesper and Magnolia

33. On Day 2 of the hearing Mr Mahaffey noted that the Inquiry had searched for and obtained documents which had not been available at the time of Operation Magnolia.¹⁰ The IOPC would

¹⁰ Day 2, page 132, line 18 to page 133, line 9.

like to clarify that these documents were subsequently considered by the investigation, and were not considered to impact upon its outcome.

34. The Inquiry also heard that the account that Mr Collins provided to the Inquiry was not fully accurate, which was identified after consideration of the contemporaneous police documents.¹¹ The IOPC will therefore include in its review consideration of whether any further work should be undertaken in respect of these investigations, which will in turn include a thorough consideration of the evidence of Mr Collins.

(e) Operations Jordana and Osier

35. Mr Scorer stated in closing that *'in Operation Osier there was a failure to recognise that Hoodless, in Operation Jordana, was at least in part corroborating what Groves was saying about the operation being shut down if persons of prominence were found'*.¹² The IOPC does not accept this. The IOPC does of course concede that Mr Groves' allegations were not immediately linked to Operation Jordana due to Mr Groves having mistakenly stated that his allegation related to an 'Operation Broadsword'. However, once this error was identified by Operation Winter Key officers, Mr Groves' allegations were included as part of Operation Jordana, and indeed each of the investigations is cross-referenced in the other report.

36. Mr Scorer also stated that *'Mr Mahaffey acknowledged in oral evidence that the conclusion reached within the IOPC report that Grove's allegations cannot be given any provenance must now be reviewed given the evidence of Hoodless, which wasn't adequately analysed and taken into account when conclusions were drawn'*.¹³ Insofar as the IOPC is aware, Mr Mahaffey did not make this comment. On Day 2 of the hearing, he did provide the following evidence:¹⁴

Q. Would you regard what Mr Hoodless said as supporting in any way what Mr Groves alleged?

A. Yes, it does.

Q. So maybe this conclusion needs to be qualified to that extent?

A. Yes, it does.

37. The IOPC agrees with this position, and the qualification made. However, there are important differences between the evidence of Mr Groves and Mr Hoodless which should be recognised. Mr Hoodless' witness statement (OHY005279) refers to a conversation which he states

¹¹ Day 2, page 133, line 10 to page 134, line 1, and page 134, line 20 to page 135, line 3.

¹² Day 14, page 31, lines 7-11.

¹³ Day 14, page 31, lines 19-24.

¹⁴ Day 2, page 84, lines 9-12.

occurred in a pub when the operational team were discussing tactics. Mr Groves alleged that during a briefing on Operation Circus, he and other officers present were informed by a senior officer that the investigation would cease if it encountered any prominent members of society. Mr Groves was adamant in his oral evidence that this would not have taken place in a pub¹⁵, as described by Mr Hoodless. Finally, Mr Hoodless stated that the rationale for not pursuing persons of public prominence was due to the focus of the investigation, whereas Mr Groves' evidence was that the implication was that any such matter would be covered up.

38. In light of the above, whilst the evidence of Mr Hoodless is corroborative of that of Mr Groves in relation to there being an understanding that persons of public prominence would not be pursued, the general lack of specificity means that there is no avenue, which has not already been explored, by which this matter can be progressed any further. Accordingly, the IOPC does not at this point consider that either Operations Jordana or Osier require re-opening. To be clear, this position should not be interpreted as suggesting that Mr Groves has lied or indeed that his recall is necessarily incorrect; it is simply that it is not supported by the majority of the evidence obtained, and in the circumstances the IOPC is unable to take any further action.

39. In this regard, we note the recommendation from Mr Scorer that the IOPC ought to '*make a more rounded and reflective assessment of the credibility of witnesses that they have interviewed*'.¹⁶ For clarification, other than in exceptional circumstances, the IOPC does not itself carry out interviews in managed investigations. However, and in any event, the IOPC does of course take into account the presentation of witnesses, and assesses issues regarding credibility. However, contradictory evidence must also be afforded due consideration, and an absence of supporting evidence will remain problematic, particularly where a witness' recall is vague or lacking in detail. It is important to understand that ordinarily the primary question to be addressed at the conclusion of a conduct or special requirements complaint investigation is whether a tribunal, properly directed, could find a case proven against a subject officer.

(f) Operation Yew

40. The Inquiry heard a considerable amount of evidence in respect of the conduct of investigations regarding Peter Morrison. The IOPC has begun to scope this evidence in order to determine whether any further steps are required in this regard.

(g) New Information

¹⁵ Day 3, page 36, lines 16-21.

¹⁶ Day 14, page 32, lines 16-18.

41. The IOPC notes that the evidence disclosed by the Inquiry includes several matters that require consideration by the IOPC to determine whether further action should be taken in respect of the same; such information not previously having been known to it (for example, the witness statement of Christopher Horne). The IOPC will ensure that the Inquiry is kept updated in respect of this work.

(III) Learning Points and Recommendations

42. As set out in oral closing submissions the IOPC is a learning organisation and as such continually seeks opportunities to improve. The IOPC will, in due course, undertake a review of any findings that have emerged as a result of the Inquiry and will consider further steps that need to be taken.

43. Within this, the IOPC will consider if there are areas for improvement or if there is any part of the overall investigation that could have been better delivered. The IOPC is firm, however, that it has: (i) committed a high level of resource to these investigations; (ii) provided rigorous oversight of the MPS throughout; (iii) taken appropriate action to ensure that all reasonable lines of enquiry were pursued; and (iv) provided an enormous amount of assistance to the Inquiry.

(a) Thematic issues

44. Mr Scorer submitted that there had been a failure on the part of the IOPC to '*systematically draw together the relevant investigations to identify common themes and concerns*'.¹⁷ This criticism is rejected.

45. Through its Overview Report, the IOPC has identified and analysed numerous common themes and areas of concern. This Report was specifically created in order to provide the Inquiry, Core Participants, and the public with a comprehensive overview of the matters that had been investigated, with analysis of issues and themes identified. This included commentary on substantive matters such as common locations and alleged perpetrators (see paragraphs 94 to 96 and 88 to 91 respectively). Where this commentary was necessarily limited, the IOPC provided reasons for this.

46. The IOPC notes that Mr Scorer's intended meaning may have been that the IOPC did not place sufficient evidential weight upon the incidence of common features in investigations. Whilst

¹⁷ Day 14, page 31, lines 2-3.

the IOPC recognises that similar fact evidence may be accorded weight in appropriate instances, this is extremely problematic in circumstances in which: (i) many allegations were relatively vague and unspecific; (ii) in almost all cases there was a significant delay before the allegation was made, during which time there had been substantial media coverage of these issues; (iii) significant difficulties have been encountered in obtaining corroborative evidence; and (iv) in several instances, the allegation has been undermined by evidence that has been obtained. In this regard the comment of Mr O'Connor QC during questioning on Day 2, in respect of Operation Bonsai is noted: *"The point perhaps being that one can't simply look at the number of times they come up, one has to look at the details of the investigations in which they come up... because both names appear here, but here, after a thorough investigation, there was no suggestion that in fact those two individuals had featured in the investigation or that they had been protected?"*¹⁸.

47. This question relates to the concept of 'no smoke without fire', which has been raised during the course of the Inquiry. The focus of the IOPC managed investigations, as stated in the Overview Report, was to investigate allegations of police misconduct regarding their handling of the allegations of child abuse. In the event, evidential difficulties meant that in many cases it was not possible to establish whether or not the incident central to the allegation of police misconduct did in fact occur. Whilst the IOPC does not suggest that the repetition of certain identities and locations is irrelevant, for all of the reasons referenced above, it is not possible to draw any firm conclusions from such repetition.
48. It is important to understand that the IOPC must operate within its statutory framework, as provided by the Police Reform Act 2002 (PRA), and the attendant Regulations. Accordingly, (recordable) conduct investigations and complaint investigations subject to special requirements are primarily focussed on enabling decisions to be made as to whether: (i) relevant persons have a case to answer for misconduct or gross misconduct (or in these cases, due to the circumstances of the persons concerned, would have done so); and (ii) any criminal offences may have been committed, which ought to be considered by the CPS.
49. The IOPC does on occasion release thematic reports, however these are separate from those required by the statutory investigative framework; instead being produced pursuant to the Director General's 'General Functions' (s.10 PRA). Indeed, in this case the Overview Report was produced, which, as above, enabled broader exploration of thematic issues.

¹⁸ Day 2, page 63, lines 18-25.

50. Whilst it was clearly important to ensure that any common evidence and information was shared between the investigations, it was also important that the investigations were focussed and appropriate strategies established in order that relevant lines of enquiry were identified and pursued, and to encourage the efficiency and effectiveness of the investigations.
51. However, this did not exclude dialogue between the Operations, and, as shown from the above, efforts were made to ensure that possible links were identified and explored.
52. All of the investigations were carried out by one team in Operation Winter Key (under the supervision of one Detective Chief Inspector, Dan Setter, and later Detective Inspector Maggie Samuels) with oversight provided by one team at the IOPC, thus facilitating this joined-up approach. It is therefore inaccurate to state, as Mr Scorer did, that the IOPC was acting in a “*slightly siloed fashion*”,¹⁹ and links were of course made between investigations (for example, Operations Hesper and Magnolia). As heard in the evidence from Commander Roper there was additional interaction between the two strands of Operation Winter Key, which enabled information to be passed to and from the Department of Professional Standards (‘DPS’) strand and the team investigating substantive allegations of child sexual abuse.

(b) Power to compel retired officers

53. As the Chair and Panel will be aware from the Overview Report, Paragraph 19F to Schedule 3 PRA and the Police (Complaints and Conduct) Regulations 2013 require serving police officers to attend an interview in specific circumstances. The IOPC notes the comments made by Mr Scorer with regard to the proposed introduction of the power to compel former officers to interview. The IOPC is aware that as part of the final report into the Westminster Investigation, the Chair will make appropriate recommendations to improve child protection and safeguarding in England and Wales (ToR number 3). The IOPC is further aware that within this the Chair may consider recommendations regarding IOPC processes.
54. Whilst the IOPC appreciates the concept of such a power of compulsion, it is difficult to envisage how this would operate in practice. Serving police officers can be sanctioned for their failure to attend an interview where this is without reasonable cause, but this is clearly not applicable to a former officer failing to attend an interview or to otherwise co-operate in circumstances external to criminal or civil proceedings
55. The Inquiry may however wish to note that the IOPC understands that in the current round of legislative reform relating to the police complaints and disciplinary system, the Home Office is

¹⁹ Day 14, page 31, line 5.

intending to update the standards of professional behaviour to include a positive expectation that (serving) police officers will cooperate with investigations.

(c) New regulations for the retention and destruction of documents

56. As the Panel will recall, during questioning Mr Frank asked Mr Mahaffey about issues regarding document retention, and the difficulties resulting from documentation having been destroyed.²⁰ Mr Frank's questioning appeared to be addressed towards IOPC policies, and this line was seemingly continued by Mr Scorer in his closing submissions, in which he included as a 'recommendation for the IOPC' that there was a requirement for new regulations regarding the retention and destruction of police files and documents.²¹

57. To be clear, the IOPC is not responsible for police data retention policies, and these issues are more properly addressed by the MPS and any other relevant force. As set out by Ms Leek QC in her oral closing submissions,²² issues surrounding the retention and destruction of documents are extremely complex and policies must of course be in accordance with data protection law. The IOPC is able to make learning recommendations in circumstances as set out by paragraph 28A Schedule 3 PRA, and in the carrying out of its 'General Functions' under s.10, but has no specific authority over police forces in respect of its data handling.

(IV) Matters raised by counsel for Harvey Proctor

58. To address in brief closing comments made by Mr Wagner on behalf of Mr Proctor, the IOPC wishes to emphasise that the IOPC/MPS operations were focussed on allegations of police misconduct and not any underlying investigations of child sexual abuse (unless a person serving with the police was implicated in the same). It would not be appropriate for an IOPC report to exonerate an alleged offender, absent particular circumstances such as those that pertained in Operation Spruce.

(V) Points of Clarification

59. The IOPC takes this opportunity to clarify a few matters addressed in Mr Mahaffey's evidence. First, Mr Mahaffey stated that "*probably three*"²³ investigations had further investigative steps to be taken, however only Operation Sapele did have investigative steps outstanding.

²⁰ Day 14, page 192, line 7 to page 194, line 15.

²¹ Day 14, page 32, lines 19-25.

²² Day 14, page 87, line 24 to page 88, line 18.

²³ Day 2, page 27, line 12.

60. Mr Mahaffey also stated that the dates of the initial referrals to the IOPC occurred between 2012 and 2014;²⁴ the referrals were in fact passed to the IOPC between 2014 and 2016.

61. Finally, the IOPC would like to clarify the comment made by Mr Mahaffey on Day 12 whereby he stated '*[c]learly, at that time, being only 17, homosexuality was still a criminal offence*'.²⁵ This comment relates to the relevant age of consent for specified homosexual acts as opposed to the legality of homosexuality. The Inquiry will note that in 1982 the relevant legal age of consent was 21.

Conclusion

62. The IOPC hopes that the above is useful to the Inquiry, and remains committed to assisting this important work. The IOPC will ensure that the Inquiry is kept updated as to its progress in relation to its review, as set out above.

LORNA SKINNER
Matrix Chambers
12 April 2019

²⁴ See Day 2, page 48, line 15.

²⁵ Day 12, page 173, lines 16-17.