

Complaints against the police, and the IOPC

The Independent Office for Police Conduct (IOPC) oversees the police complaints system in England and Wales. As the name suggests, they claim to be independent of the police and government. You can find out more about them [here](#).

In most cases the IOPC will only investigate a complaint against the police if the complaint could not first be resolved directly with the police and a right of appeal to the IOPC was given. The IOPC will however act as a conduit for police complaints, making sure they get to the right police department, and so on. This is the route we took.

Our complaint against the police

Below is the full text of the complaint we raised:

Police incident reference 6545962/17 refers to complaints lodged by me and by a number of other individuals alleging misconduct in public office of government ministers. It also refers to a letter of endorsement of those complaints signed by nearly 4,300 individuals.

At the heart of our complaints are the mendacity and deception undertaken in the introduction of the European Union (Notification of Withdrawal) Bill 2017 and the subsequent misuse of the resulting Act (THE ACT) by the Prime Minister to justify her Article 50 notification. We allege THE ACT was not fit for that purpose and that this was known by Theresa May, David Davis and others at the time. The evidence advanced in support of the allegations, compiled by authoritative London barrister David Wolchover and published in a well respected law journal, is all a matter of public record, requiring little or no interpretation or clarification.

In his letter dated 27/11/17 in which he declined to investigate the allegations, Commander Cundy made mention of legal advice commissioned by the MPS to evaluate the arguments we had advanced in support of our claims. He did not say what that advice was, nor did he confirm whether it shaped the MPS view (we assume it did). When subsequently asked, he refused to disclose the advice or its source. He did however state that it is the view of the MPS that THE ACT provided a legally binding declaration of the UK's intention to withdraw, and cited this as the rationale for his refusal.

I am making this complaint for the following reasons:

1. Lack of transparency: the refusal is predicated on a view taken by MPS of a contentious legal question. The view is likely to be based on undisclosed legal advice from an undisclosed source. Given the grave political implications of a decision to investigate, the lack of transparency of the decision not to do so gives the appearance of political influence or pressure.
2. Fallacious reasoning: the wrongdoing that we allege to require investigation centres on THE ACT and activities surrounding it. The MPS refusal to investigate relies entirely on a presumption about how THE ACT should be interpreted. This point is far from settled in legal circles and cannot be validated without undertaking the very investigation the MPS has denied with its presumption. The reasoning is circular and gives the appearance of bias i.e. assuming what one seeks to prove.

3. Invalid point of reference: expanding on point (2), THE ACT itself cannot serve as the point of reference for determining whether a criminal investigation is called for because its integrity is compromised by virtue of its central role as a tool in the alleged wrongdoing. A defensible point of reference for assessing these criminal allegations would be an understanding of what objective THE ACT was designed to achieve and how well it measures up constitutionally. THE ACT was written as a direct response to the Supreme Court ruling in the Gina Miller case, therefore an appropriate point of reference would be an assessment of the substantive elements of the Miller ruling, read together with Article 50.
4. Weak position: there is disharmony between the view taken by the MPS and the position taken by the government in pre-action correspondence in a judicial review that advanced similar arguments. The MPS view is that THE ACT was itself a legally binding declaration of the UK's intention to leave, suggesting the leave decision is implied in THE ACT. The government's position is that THE ACT only needed to give authority to notify with no need for an implied decision. (Wolchover and others would argue that a formal leave decision remains outstanding because one is needed but cannot be implied in THE ACT.) This disharmony demonstrates that the question of what, if anything, can be inferred in THE ACT remains unsettled. While the referenced government position was not known at the time of Commander Cundy's refusal, its revelation further weakens the MPS position that their unsubstantiated view can reasonably serve as rationale for refusing to investigate our claims. (For more on the government's position, see page 4 of this recent Wolchover article: : bit.ly/2ersjhh.)