

Force reference: PC/00909/18
Our reference: 2018/100093

PO Box 473
Sale M33 0BW

Blwch Post 473
Sale M33 0BW

Tel/Ffôn 0300 020 0096
Text relay/Cyfnwidi Testun 18001 0207
166 3000
Email/E-bost
enquiries@policeconduct.gov.uk
Web/Gwefan www.policeconduct.gov.uk

22 June 2018

Dear [REDACTED]

This letter is about your appeal against the Metropolitan Police Service (MPS), which we received on 17 April 2018. Your appeal relates to the decision made by the force's Directorate of Professional Standards (DPS) to disapply your complaint which was made directly to the IOPC on 23 February 2018.

The IOPC's role is to review whether the decision to disapply, for example to take no action, should have been taken. The IOPC did not investigate your original complaint.

Our legal duties are set out in paragraph 7 of Schedule 3 of the Police Reform Act 2002¹. As part of the review I looked at:

- the representations you gave as part of your appeal;
- whether you were given the opportunity to make representations before the decision was taken and, if you did give any representations, whether these were looked at before the relevant appropriate authority made their decision;
- if the information provided by the relevant appropriate authority supports their decision that your complaint is an abuse of the police complaints system.

It is important to highlight that in reaching my decision I have considered all of the material and comments provided. Where a document or comment has not been specifically referred to, it does not mean it has not been considered.

After looking at all the information available I have decided not to uphold your appeal because I consider that your complaint is both vexatious and an abuse of the police complaints system.

I note in your complaint dated 23 February 2018 you claim that Commander Cundy declined to investigate your allegations of misconduct in public office against

government ministers. I note your allegations against government ministers related to the European Union (Notification of withdrawal) Bill 2017 and the alleged subsequent misuse of the bill by the Prime Minister to justify her Article 50 notification.

I understand that Commander Cundy wrote to you on 27 November 2017 to explain that he would not be investigating your allegations. I note that in your complaint dated 23 February 2018 you alleged that in Commander Cundy's letter he made reference to legal advice which had been commissioned by the MPS. You note that he did not say what the advice was nor did he confirm whether it shaped the MPS' view. When subsequently asked, you note that he refused to disclose the advice or its source. You note that Commander Cundy stated that the Act provided a legally binding declaration of the UK's intention to withdraw and cited this as the rationale for his refusal. In your complaint you claimed that Commander Cundy's decision was based on fallacious reasoning and that the refusal to provide the legal advice demonstrated a lack of transparency.

The force recorded your complaint on 6 March 2018 and wrote to you on 8 March 2018 explaining their intention to disapply your complaint and requested representations from you as to why you did not consider your complaint was an abuse of the police complaints procedures. I note you provided the force with further information by letter on 9 March 2018.

On 10 April 2018 the force wrote to you to confirm that your complaint would be disapplied on the basis that it was considered to be an abuse of the complaints procedures. They explained that they did not consider that your complaint was about the conduct of Commander Cundy. They noted that you are driving a political campaign and attempting to use the police service to stop the process of the UK leaving the EU. The force noted that Commander Cundy has the right not to disclose legal advice to you. They stated that the Act has been passed into law by parliament and therefore it cannot be considered a point of complaint when a police officer relies on the content of the Act to make an operational decision.

A complaint is considered to be an abuse of the police complaint procedures where there is or has been a manipulation or misuse of the complaints system in order to initiate or progress a complaint which, in all the circumstances of the particular case, should not have been made or should not be allowed to continue.

I agree with the force that your complaint dated 23 February 2018 constitutes an abuse of the complaints procedures. It appears that you are pursuing a political campaign to stop the UK from leaving the EU and in the process of doing so you have submitted criminal allegations regarding government ministers which MPS have declined to pursue. It appears that you have submitted your complaint as you wish for this matter to be revisited and for the decision to be amended. The police complaints system should not be used to initiate a criminal investigation or to further a political campaign. To allow your complaint to continue would therefore be a misuse of the police complaints procedures.

As defined in the Police Reform Act (PRA) 2002, the term 'abuse of the complaints procedures' is part of a wider ground which is "vexatious, oppressive, or otherwise

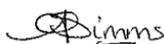
an abuse of the complaints procedures". Legislation dictates that the IOPC are able to consider the other elements of this ground in determining if your complaint should have been disappplied by the force. In doing this, I consider that your complaint is also vexatious. A vexatious complaint is one that is without foundation, which is intended, or tends, to vex, worry, annoy, or embarrass.

It appears that in Commander Cundy's letter to you dated 27 November 2017, he provided you with a full and thorough explanation for why MPS would not be commencing a criminal investigation. It was explained why this decision was in line with force policy and specific reference was made to the National Crime Reporting Standard and the Home Office Counting Rules for Recorded Crime. It can therefore be demonstrated that you are aware of the force policy and therefore your complaint against Commander Cundy has no foundation. On that basis, I consider that your complaint is vexatious.

In light of the above I consider your complaint dated 23 February 2018 to be both vexatious and an abuse of the police complaints procedures and I will therefore not be upholding your appeal against the disapplication of your complaint.

You are not able to appeal my decision. However, if you have any questions or need more information about my decision please contact me. My details are at the end of this letter.

Yours sincerely,



Alex Simms
Assessment Analyst
Independent Office for Police Conduct (IOPC)

Tel: 0121 673 3767

Email: alex.simms@policeconduct.gov.uk

CC: MPS