



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2008-03895

Keyword: Human Resources

Subject: How many PSNI officers registered second jobs

Request:

Q1. How many PSNI officers registered second jobs in each of these areas during each of the last three years (2005/06, 2006/07, 2007/08)

Q2. A breakdown of the type/nature of registered second jobs (if any) referred to in question four part (i) for each year

Q3. A breakdown of the number of PSNI officers PER RANK who registered second jobs in each of these areas during each of the last three years (2005/06, 2006/07, 2007/08)

Q4. How many PSNI officers registered business interests in each of these areas during each of the last three years (2005/06, 2006/07, 2007/08)

Q5. A breakdown of the type/nature of registered business interests (if any) referred to in question four part (iv) for each year

Q6. A breakdown of the number of PSNI officers PER RANK who registered business interests in each of these areas during each of the last three years (2005/06, 2006/07, 2007/08)

Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- disclose records in answer to questions numbered 1 3 4 and 6 in full;
- fully exempt records in answer to questions numbered 2 and 5 pursuant to the provisions of Sections 38 and 40 of the Act.

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and

(c) states (if not otherwise apparent) why the exemption applies.

Answer 1

A 'second job' is regarded as a business interest for the purpose of the Business Interest Policy within the Police Service of Northern Ireland. No differentiation is made in the application for approval process that must be complied with by any officer wishing to register a second job / business interest. The answer to question 4 below includes second jobs (if any), but does not differentiate between second jobs and business interests.

Answer 2

Your request for information in relation to this question has now been considered and the decision has been taken not to supply the information you have requested.

The exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below :

Section 38(1), Health and Safety, and
Section 40(2)(a) and (b), Personal Information.

Section 38(1), Health and Safety is a prejudiced based exemption and this means it is the Public Authority's responsibility to evidence the harm. It is also a qualified exemption and therefore a Public Interest Test must be carried out.

These tests are listed below.

HARM TEST

Individual:

Given the small geographical area and the small number of officers involved, to disclose the specific business interests of those officers could lead to the officers and their type and place of second employment or business interest being identified. This could pose a risk of terrorist or criminal attack on these officers, particularly when at their place of business etc. There have been dissident terrorist attacks on police officers in the Dungannon and Strabane areas in recent months. One of these attacks took place when the officer was off duty and the other as he was leaving his place of work having just completed his duty turn as a police officer.

Community:

Terrorist attacks usually are indiscriminate in nature and members of the public would be likely to become caught up in any potential attack as outlined above.

PUBLIC INTEREST TEST

Considerations Favouring Release

Accountability:

The Public have a right to expect the full attention and integrity of the Police Service and its Officers. If it is likely or even possible that this attention and integrity may become compromised by the second jobs or business interests of police officers then the public have a right to know that they are not, or may not be receiving the service that they are entitled to.

Improper Actions of Public Officials:

Procedures are in place to monitor and regulate the second jobs and business interests of Police Officers. The public have a right to know that those procedures are being properly applied and relevant legislation is being complied with.

Considerations Favouring Retention

Human Rights, Morals and Ethics:

When Officers who have second jobs or business interests are off duty and carrying out those second jobs or business interests they are members of the public as well and they have a right to expect not to be placed at risk by release of information about them under this legislation.

Public Safety:

All members of the public have a right to expect not to be placed at risk by release of information by a public authority. A risk would exist to members of the public if an attack were to be carried out against an off duty Police Officer whilst at a second place of employment or business interest resulting from release of this information.

Decision

I have considered the factors favouring release and favouring retention as outlined above. If a member of the public is concerned about the service received from, or the integrity of, any individual police officer, or group of police officers, they are entitled to make a complaint to the Police Ombudsman for Northern Ireland, (PONI). It is recognised that the PONI do not have the full support of every section of the community in Northern Ireland, but they do have a general good standing in the community and are recognised as an independent body with a role in investigating complaints against police officers. The European Working Time Regulations and the PSNI Code of Ethics are also in place to ensure good service and integrity are offered to the public by the Police Service of Northern Ireland.

A potential risk to the life and safety of Police Officers and other members of the public has been identified. A risk to anyone's safety will always be a strong consideration in the decision making process regarding the release of information. In this case, in light of the recent history of attacks in these areas I believe that there is an even stronger argument for retention of this information. I have therefore decided that the type and nature of the businesses should not be released and that the exemption under Section 38(1) should be applied.

Section 40(2)(a) and (b), Personal Information

The information you have requested constitutes personal data of which you are not the subject and the information falls within paragraphs (a) to (d) of the definition of 'data' in Section 1(1) of the Data Protection Act 1998 and disclosure of the information to a member of the public otherwise than under this Act would contravene data protection principles.

The Information is classified as 'Personal Information' because it specifies individual second jobs or business interests. As the numbers involved are single figures and the information relates to a small geographical area, it would be feasible to put this information together with other information, some of which may be publicly available, for example the Yellow Pages, and discover the identity of the individuals involved.

The data protection rights of a third party would be breached by disclosure, therefore Section 40(2) is an absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998) and there are two elements to this exemption.

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always view any disclosure as into the public domain. Thus the PSNI must be satisfied that any release of information will be potentially available to the general public. It is therefore on this basis that the following is very relevant.

The first element of this exemption is engaged if the information requested constitutes personal data and is made by the data subject. The information will be covered by section 40(1) and the request will be dealt with under section 7 of the Data Protection Act 1998, rights of access.

The second element of this exemption is engaged if the personal data is about someone other than the applicant. Where someone makes an application for information other than the data subject, disclosure of that information will often constitute a breach of the Data Protection Act covered by section 40(2).

Personal Data is regulated under the principles of the Data Protection Act 1998 and when information contains personal data about a third party it can only be refused if disclosure would breach any of the data protection principles.

As previously highlighted, any disclosure under FOIA is a **public disclosure** and release of the personal data of an individual relating to their employment or business interests would breach principles 1 & 2 of the Data Protection Act 1998.

Principle (1), that personal data is processed lawfully and fairly. Personal data imparted and recorded for personal files will be confidential and any public disclosure would be unlawful if there would be a breach of that law of confidentiality. Persons who give their data to the police for the purpose of establishing their suitability to hold a second job or a business interest have the expectation that it will be treated fairly and it would be unfair to an individual concerned to

disclose his/her personal data into the public domain.

Principle (2), that personal data is processed for a specific purpose and not further processed in any manner incompatible with that purpose. Data in this case was gathered and processed for a staff administration purpose. Once personal data has been publicly disclosed, it will in most cases be used for a purpose other than it was initially obtained. Public disclosure would cause unnecessary distress or damage to the persons involved, they would not have an expectation their personal data will be disclosed to others or possibly used for another purpose.

Answer 3

A 'second job' is regarded as a business interest for the purpose of the Business Interest Policy within the Police Service of Northern Ireland. No differentiation is made in the application for approval process that must be complied with by any officer wishing to register a second job / business interest. The answer to question 6 below includes second jobs (if any), but does not differentiate between second jobs and business interests.

Answer 4

Please see attached record numbered 1631.pdf

Answer 5

Your request for information in relation to this question has now been considered and the decision has been taken not to supply the information you have requested.

The exemptions the Department considered were:

Section 38(1), Health and Safety, and
Section 40(2)(a) and (b), Personal Information.

The factors the Department considered when deciding where the public interest lies, are listed above under the answer to Question 2. These considerations were made together in this way as no differentiation is made in the registration process that must be complied with by any officer wishing to register a second job or business interest. Second Jobs and business interests are not listed separately in records.

Answer 6

Please see attached record numbered 1633.pdf

For your information I have also attached a copy of General Order 11/2004, which is the PSNI's Business Interest Policy, (record 1627.pdf) This record outlines the restrictions that apply in relation to officers registering business interests, including the fact that any secondary employment cannot breach working time regulations, as the number of hours worked are limited.

This Policy is currently under review and when it is finalised it is anticipated that it will be published in the Freedom of Information section of the PSNI Website which can be accessed at the following website address;

http://www.psni.police.uk/index/pg_freedom_of_information/pg_classes_of_information/pg_our_policies.htm

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that all PSNI replies under Freedom of Information will be released simultaneously into the public domain via our website @ www.psni.police.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Police Service of Northern Ireland

1627.pdf

For Internal Use Only

HQ Ref: SPD 8

General Order No: 11/2004

File Box: B

Date: 25 February 2004

Sub Head: (a)

Part I

BUSINESS INTEREST POLICY

1. INTRODUCTION

- (1) Business Interest policy is currently guided by Regulations 7 and 8 of the Royal Ulster Constabulary Regulations 1996 (SR No 473), and directions contained in Weekly Order 28/2001. The regulations set out the requirement for police officers to give written notice of any business interest to the Chief Constable.
- (2) A review of Business Interest Policy has been carried out, mainly as a result of the emergence of other factors that could impact on this area of Policy. These include the Police Service of Northern Ireland (Conduct) Regulations 2000, the Police Service of Northern Ireland (Conduct) Regulations 2003, the Working Time Regulations (Northern Ireland) 1998, the establishment of the Police Rehabilitation and Retraining Trust, the ongoing severance programme and Human Rights Legislation.
- (3) This document sets out the Business Interest Policy of the Police Service of Northern Ireland. The primary aim of Business Interest Policy is to provide a structured process for application and approval of business interests, including guidance on criteria for approval and guidance on the responsibility of line managers and district commanders/heads of branches in this regard.

2. APPLICATION

An officer who wishes to apply to register a business interest must submit a written application to their inspector (or immediate line manager if applicant is of inspector rank or above). The application form Form HR1 is attached at Appendix 'A'.

3. CRITERIA FOR APPROVAL

Several conditions must be satisfied if the application is to be approved. There must be no conflict of interest (actual or perceived) arising from the officer's involvement in the business and their role as a police officer. Accordingly, the application must provide confirmation that the following criteria will be met:

- (a) The operation of the business must not be contrary to the interests or the organisational objectives of the Police Service of Northern Ireland and not have the potential to result in a contravention of the policies or procedures of the Service;
- (b) The business must not by its nature be incompatible with any duties which a police officer may in the normal course of duties perform;
- (c) The business must not involve the officer directly in its administration to the detriment of their role as a police officer in accordance with the Code of Ethics;
- (d) The business must not promote or publicise the officer's membership of the Service in such a way as to reflect the Police Service in an unfavourable manner, or imply favourable/preferential treatment;

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(e) The business must not be such that the officer uses their position as a police officer to further the aims of the business;

1627 The business must not involve activities that would be a threat to the security of the officer, their immediate family, colleagues or the public;

(g) The officer's involvement in the business must not have any adverse affect on their ability to perform their duties.

4. APPROVAL

(1) On receipt of an application to register a business interest, the officer's inspector (or immediate line manager if applicant is of inspector rank or above) will examine the application. The officer inspecting the application must ensure that all relevant information has been included. Firm recommendations must be made on whether or not approval should be granted, setting out the reasons for recommendation or refusal. The application should then be forwarded to the district commander/head of branch.

(2) On receipt of the application, prior to making any decision on approval, the district commander/head of branch will, forward the application to the Head of Internal Investigations Branch for examining in relation to the Police Service of Northern Ireland (Conduct) Regulations. This is necessary to establish whether there could be any potential for a breach of the Regulations. The Head of Internal Investigation Branch will give careful consideration as to the compatibility of the proposed business interest when balanced against the imperative for the member concerned to comply with the provisions of the Code of Conduct/Ethics; and will formulate a recommendation accordingly.

(3) If considered necessary by the district commander/head of branch a security assessment should be obtained.

(4) Whilst each application must be considered on its own merit, it is also important that consistency of approach in decision-making is maintained.

(5) In all cases district commanders/heads of branches must fully record the reasons for decisions. This is essential because Regulation 7(4) of the Royal Ulster Constabulary Regulations 1996 requires the Chief Constable, in any Appeal, to submit copies of documents relied on in support of a decision.

(6) Once a decision on a member's application has been made at district/branch level, then the member shall be informed in writing and the approval recorded on SAPS by the district commander/head of branch. A sample approval form Form HR2 is attached at Appendix 'B.' This form should be amended to reflect any specific or additional conditions attached to individual approvals.

(7) Information Management, HR Department, Lisnasharragh, will ensure the necessary authorisation is provided for the updating of computer records at district/branch level in this regard. In circumstances where SAPS has yet to be devolved to branch level, the documentation should be copied to HR Department, Lisnasharragh, for updating of computer records. The original application and accompanying documentation will be retained in the member's personnel file at district/branch level.

(8) For applications from officers of district commander/head of branch level and above, the decision will be taken by the officers immediate line manager.

5. APPEAL

(1) Appeal against refusal of applications lies to the Northern Ireland Policing Board under Regulation 7(3) and 7(10) 1996 SR No 473.

(2) The officer wishing to appeal a refusal must submit the appeal in writing to the Northern Ireland Policing Board within 10 days of the officer having been notified of the decision to refuse an application. The officer appealing can request that this 10-day period be extended, if they have reasonable grounds for making this request.

6. SICKNESS ABSENCE

- (1) If there is clear evidence of abuse of the grant of a business interest by an officer on long-term sick leave, the district commander/head of branch (or other authorising officer) may give consideration to the suspension of the business interest authorisation. In these circumstances, prior to any action being taken the views of Occupational Health and Welfare Unit must be obtained on the potential for any detrimental effect on a member's health.
- (2) It is emphasised there must be clear and verifiable evidence before suspension of a business interest authorisation can be considered.

7. GENERAL

- (1) Under the provisions of the Working Time Regulations, where a person works for two or more employers each employer should make reasonable enquiries to determine the number of hours that the worker does in total in a seven day period. Any officer currently operating a business, or making application for business interest approval, must inform their district commander/head of branch of the hours they are working or intend to work in an approved business. If this business authorisation would result in a member's working time being in excess of the 48-hour week limit, the member should be requested to sign a waiver form to waive their rights to the maximum 48-hour week. Member's attention is also drawn to the provision of paragraph 3(g) of this policy.
- (2) Members with approved business interests must report every 12 months to their district commander/head of branch on whether or not there has been any substantial change in circumstances regarding their business interest. Similarly, if a substantial change does take place at any time, the district commander/head of branch must be notified. A substantial change must include anything relating to either the criteria set out in Paragraph 3 of this General Order or the information required on the application form. If a substantial change is reported by a member, the decision on continuing approval or otherwise will be communicated to the applicant and SAPS updated accordingly.
- (3) Details of all business interest approvals and refusals will be forwarded to Information Management, HR Department, Lisnasharragh, who will maintain a central record on database of all business interests.
- (4) Those members currently operating businesses which have been approved pending the review of business interest Policy do not have to re-submit applications, unless a substantial change has occurred since the approval was granted.

8. CANCELLATION

Directions on this matter contained in Weekly Order 28/2001 are hereby cancelled.

Distribution/

**All chief officers, chief superintendents,
superintendents, departments, stations, offices and
the Police Ombudsman for Northern Ireland**

General Order Part I, No. 11/2004, File Box B(a)

Index Entries/

'A' - Approval of Business Interests

'B' - Business Interests

1627.pdf



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APPLICATION TO REGISTER A BUSINESS INTEREST

Surname: _____

First Name(s): _____

Department/Station/DCU: _____

Service Number: _____ Rank: _____

Contact Tel No (work): _____

Name/Title of Business to be registered: _____

Do you have any other Business Interests registered? Yes/No*

If Yes, please state Name/Title of Business Interest and date authorised: _____

Employment Type:

Agency Work

Secondary Employment

Self Employed

Other (please specify)

Please indicate type of employment by ticking relevant box

Principal Owner of Business: _____

Name of Organisation: _____
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Address: _____

Location where business will be carried out (if different from above):

Address: _____

Job Title/Position within Organisation (please include brief Job Description):

Please complete this section if your Business Interest is in the area of Training:

Indicate relevant
area of training
by ticking the
appropriate
box(es)

IT Skills

Management Skills

Driving Skills

Close Protection Skills

Training for Police Promotion
Examination/Assessment

Other (please specify)

Please indicate if you have obtained this skill/these skills during Police Service training:

Yes/No* 1627.pdf

Title and content of any training course provided in the business:

Do you have any role to play in the OSPRE™ process or the marking of student/probationer assignments?

Description of the type and nature of work:

Description of product (if applicable):

Target customers for business:

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Description of advertising medium (if applicable - include titles of publications):

Time commitments:

Please indicate an estimate of the number of hours per week to be spent on the business interest:

Criteria for approval:

Does the Business Interest satisfy all the criteria set out in paragraph 3 of General Order 11/2004 File Box B(a) - 'Business Interest Policy'?

Yes/No*

If No, please provide explanation why:

Inspector/1st Line Manager comments and recommendations:

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Signature: _____

Date: _____

District Commander/Head of Branch comments:

Security assessment required? Yes/No*

Application approved/refused*

Signature: _____

Date: _____

District/Departmental Personnel Officer

Please ensure the member is informed of the above decision and have records updated.

District Commander/Head of Branch

Date: _____

*Delete as applicable
PB 2/04

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BUSINESS INTEREST

Name, Rank, Number _____

Name of Business _____

Inspector _____

Approval is granted for the above-named officer to carry out the business interest as submitted. This application is approved subject to compliance with the following conditions:

1. The operation of the business must not be contrary to the interests or the organisational objectives of the Police Service of Northern Ireland and not have the potential to result in a contravention of the policies or procedures of the service.
2. The business must not by its nature be incompatible with the role of a police officer.
3. The business must not involve the officer directly in its administration, to the detriment of their role as a police officer, in terms of the Police Service of Northern Ireland (Conduct) Regulations.
4. The business must not promote or publicise the officer's membership of the service in such a way as to reflect the Police Service in an unfavourable manner, or imply favourable/preferential treatment.
5. The business must not be such that a perception could arise of the officer using their position as a police officer to further the aims of the business.
6. The business must not involve activities that would be a threat to the security of the officer, their immediate family, colleagues or the public.
7. There must be no conflict of interest (actual or perceived) arising from the officer's involvement in the business and their role as a police officer.
8. The officer's involvement in the business must not have any adverse effect on their ability to perform their duties.

Any change in circumstances should be notified immediately to the District Commander/Head of Branch.

District Personnel Officer

Question iv - How many PSNI officers registered business interests in each of these areas during each of the last three years			
	2005/06	2006/07	2007/08
Dungannon		1	
Cookstown	1		
Omagh	1		
Strabane	2	1	

Question vi - A breakdown of the number of PSNI officers PER RANK who registered business interests in each of these areas during each of the last three years (2005/06, 2006/07, 2007/08)			
		Constable	Reserve Constable
2005/06	Dungannon		
	Cookstown	1	
	Omagh	1	
	Strabane	1	1
2006/07	Dungannon		1
	Cookstown		
	Omagh		
	Strabane	1	
2007/08	Dungannon		
	Cookstown		
	Omagh		
	Strabane		