



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2009-00523

**Keyword:** Complaints/Discipline

**Subject:** DRUGS TESTING WITHIN PSNI

### Request and Answer:

#### Question 1.

How many Intelligence led drug tests have PSD of the PSNI carried out?

#### Question 2.

How many of these have tested positive?

#### Question 3.

How many of these have tested negative?

#### Question 4.

How many times have the PSD failed to carry out a drugs test when they are in receipt of information concerning a PSNI officer taking drugs?

#### Answer.

The Police Service of Northern Ireland can neither confirm nor deny that it holds the information relevant to questions 1 - 4 of your request as the duty in s1 (1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 41(2) Information Provided in Confidence

Section 40(5) Personal Information

Section 30(3) Police Investigations

Section 31(3) Law Enforcement

Section 38(2) Health and Safety

This letter should therefore be treated as a refusal notice in relation to questions 1 - 4.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at s1 (1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at s1 (1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon section 17 of FOIA requires that we provide the applicant with a notice which: a) states that fact b) specifies the exemption(s) in question and c) state (if that would not otherwise be apparent) why the exemption applies.

Section 41 is a class based and absolute exemption. Such information, if held, would have been provided in confidence. There is no need to identify harm or to conduct a public interest test.

Section 40 is a class based and an absolute exemption. Such information, if held, could lead to the identity of individuals. There is no need to identify harm or to conduct a public interest test.

Section 30 is a class based qualified exemption. Such information, if held, would be held for the purposes of police investigations. There is no need to identify harm. However, a public interest test is necessary. Details of the public interest test can be found below.

Both Sections 31 and 38 are prejudice based and qualified exemptions. The prejudice must be identified and this must be challenged by a public interest. The harm and public interest test can be found below.

### **HARM TEST**

A disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. The police service would not want to confirm to the world that it had received intelligence in relation to the illegal use of drugs as such a disclosure would reveal the focus of police enquiries and indicate the existence or otherwise of such intelligence, which would be useful to individuals engaged in unlawful activity e.g. drug taking.

Disclosures by confirming or denying the existence of such information could dissuade people from providing information to the police in the future. The public must have confidence that their information is treated sensitively and appropriately. A lack of confidence will result in a reduced flow of information to the police, as persons will be reluctant to provide information if there is a risk of that information being released or their identity compromised.

Disclosing information that could compromise the identity of an individual to the world would breach the data protection rights of that person, and display an attitude that the police service is reckless as to the consequences of such a disclosure. At best it could attract unwanted media attention and at worst actually place an individual at risk, for example an informant involved in a sensitive operation.

### **PUBLIC INTEREST TEST**

#### **FAVOURING CONFIRMING OR DENYING THAT SUCH INFORMATION IS HELD.**

There is a general public interest in the way that police work and for public bodies to be accountable for their actions. Information, which enables the efficiency and effectiveness of a force to be scrutinised, will be of benefit to the community. The behaviour of Police Officers and how they are dealt with is always high on the public agenda. Confirming that we hold or do not hold the information would give the public an insight into how such information is dealt with.

Confirming or denying that such information is held could assist the public debate into the use of intelligence.

#### **FAVOURING NEITHER CONFIRMING OR DENYING THAT THE INFORMATION IS HELD.**

A disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. The police service would not want to confirm to the world that it had received intelligence in relation to the illegal use of drugs as such a disclosure would reveal the focus of police enquiries and indicate the existence or otherwise of such intelligence, which would be information useful to individuals engaged in unlawful activity e.g. drug taking.

Irrespective of whether the information exists or does not exist, the need to protect the flow of information from the public is of paramount importance. Disclosures by confirming or denying the existence of such information could dissuade people from providing information to the police in the future. The public must have confidence that their information is treated sensitively and appropriately.

An example where this harm could occur may best be demonstrated with a fictional scenario. Mr Y makes a Freedom of Information request, asking for the number of intelligence logs submitted relating to a small geographic location which has three houses within it. If the occupants at that location had provided intelligence to the police, simply confirming or not whether information was held by applying an exemption, would reveal that the police hold intelligence, which had been provided in confidence. Disclosing such a fact to the world would breach the data protection rights of those residents, and display an attitude that the police service is reckless as to the consequences of such a disclosure. At best it could attract unwanted media attention and at worst actually place an individual at risk, for example an informant involved in a sensitive operation.

Therefore, at this time, the balance of the public interest favours maintaining our stance in being unable to confirm or deny that such information exists. No inference can be taken from this refusal that the information you have requested does or does not exist.

Although a neither confirm or deny response has been issued in relation to questions 1-4 we could consider a request for the total number of tests that the PSNI have conducted (subject to a specific time frame), including how many tests were positive/negative. This would be unlikely to attract a neither confirm or deny response because it would not specifically relate to 'intelligence led' drug tests. Any such request will be treated as a new request and processed accordingly.

#### **Question 5.**

How many appeals has DCC Leighton / or another officer in his absence heard when the PSNI have decided to dispense of a probationary officers services?

**Answer**

At the date of this request, there have been two cases

**Question 6.**

How many times has the DCC overturned the original decision?

**Answer**

At the time of this request, there have been no cases where the original decision has been overturned by the Deputy Chief Constable.

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](mailto: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 PSNI replies under Freedom of Information may be released into the public domain via our website @ <http://www.psni.police.uk/>

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