



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2009-02657

**Keyword:** Finance

**Subject:** Audit Reports from Financial Years 2007/08 & 2008/09

**Request and Answer:**

### Question

Details of audit reports from financial years 2007/08 and 2008/09 which delivered "unacceptable" or "limited assurance" opinions in relation to the PSNI.

Please provide a copy of any relevant audit report in each case.

### Answer

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

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.

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

**S36 (1) (b) (2) (b) (i) (ii) – Prejudicing effective conduct of public affairs**

### **Public Interest Test 1<sup>st</sup> Applicable exemption - S36**

#### ***For Release***

There is a strong public interest in disclosing information which ensures that there is transparency in public expenditure and the way the PSNI conducts itself. In particular, the effectiveness and efficiency with which the Service operates.

There is also a strong public interest in the accountability of departments in achieving objectives and delivering to set objectives and plans. The prospect of disclosure also heightens the need for demonstrable evidence and as such there is an argument that this would lead to fuller and franker submissions to the Internal Audit process.

### ***For Retention***

There is a public interest in maintaining an efficient and effective Internal Audit process. Internal Audit is recognised as an essential way to ensure assessments are made of the overall adequacy and effectiveness of the Public Authority's risk management, control and governance processes. Disclosure would inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation. A disclosure of Internal Audit reports could undermine or prejudice the Internal Audit process – to do so would prejudice the effectiveness with which the PSNI achieves its objectives across all of its business areas to the detriment of the public interest.

There is a strong public interest in public authorities being able to carry out and use frank assessments and maintain useful and candid assessments of progress and effectiveness, both whilst individual projects are being delivered and in assessing the general operation of business areas. In maintaining oversight of the effectiveness with which the process is being delivered, the process is enhanced when any contributions/assessments produced or submissions made to the Internal Audit team are unrestrained frank and candid. The prospect of disclosure would be likely to undermine or restrain this work and reduce the frankness and candour of the assessments leading to less effective recommendations. A less robust Audit would therefore adversely affect delivery and implementation. This would be detrimental to the operation and delivery of audit reports and therefore disclosure is not in the public interest.

Internal Audit reports are produced as part of the assurance requirements for PSNI to ensure that the Chief Constable can sign off his Stewardship Statements and Statement on Internal Control.

The Statement on Internal Control is a publically available document, published annually that lists outstanding Priority 1 recommendations and details progress towards their resolution.

Release of individual IA Reports may serve to damage the standing and reputation of the Service; it may also be an inhibitor to the commissioning of future reports and in that sense damage the internal management of PSNI.

The release of individual reports will not be contextualised into the overall management of PSNI and could affect public confidence in the administration of PSNI and the wider system of justice.

The public need to have confidence that their police service is being managed effectively and efficiently. To this end the Stewardship Statements and Statement on Internal control are public facing documents placing the management of the PSNI in context.

### **S41 (1) (a) (b) – Information provided in confidence**

### **2nd Applicable exemption S41**

S41 is an absolute exemption – where release of the information would result in an actionable breach of confidence. This exemption specifically relates to information that has been obtained by the public authority from another person or company. The exemption may be enforced only where an actionable breach of confidence would occur should the information be disclosed. This is where release could result in the provider or third party taking the authority to court.

### **Breach of Confidence Test**

To determine whether a breach of confidence would occur if the information were to be disclosed it is necessary to conduct a Breach of Confidence Test.

A breach of confidence will become actionable if:

- The information has the necessary quality of confidence;
- The information was given in circumstances under an obligation of confidence; and
- There was an unauthorised use of the information to the detriment of the confider (the element of detriment is not always necessary)

Where the individual or organisation to whom the obligation of confidentiality applies, consents to the release of the information, this will not lead to an actionable breach of confidence. However, the audit reports clearly state that the reports and the work connected therewith, are subject to the Terms and Conditions of their contract. The reports are produced solely for the use of Police Service of Northern Ireland and its contents should not be quoted or referred to in whole or in part without prior written consent except as required by law. The company employed to carry out the audit, will accept no responsibility to any third party, as the report has not been prepared, and is not intended for any other purpose.

However, the disclosure of this information is not required by law and Deloitte, despite repeated requests from PSNI, has not provided their opinion on whether or not they would have any objection to the audit reports being released.

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## **S40 (2) (a) (b) (3) (a) (i) (ii) – Personal Information**

### **3<sup>rd</sup> Applicable Exemption S40**

Your request contains questions that to answer would require me to release personal details about individuals other than the applicant. It is not considered prudent to either release the names of individual members or the name of the Company employed to conduct PSNI's internal audits. Disclosure of this information would breach the Data Protection principles. This would be a breach of the Data Protection Act and is catered for within Freedom of Information by the exemptions under Section 40(2) as outlined below.

Section 40(2) is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure. 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).

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 and not just to an individual.

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 released if disclosure would not breach any of the data protection principles.

Principle 1 is that personal data must only be processed lawfully and fairly. This data was imparted to the PSNI for the purpose of internal administrative purposes. To process this information for any other purpose, i.e. by releasing it under Freedom of Information would be unfair to the individuals concerned and therefore a breach of this principle.

## **Decision**

In relation to 07/08 and 08/09 Audit Reports, the passage of time is a key element. Any submissions and assessments made to, or by, the Internal Audit team as part of the process would be constrained by the prospect of disclosure to the prejudice of the conduct of public affairs and the detriment of the public interest.

The greater public interest remains in maintaining the integrity of the Internal Audit process by ensuring the prospect of disclosure does not restrain the Internal Audit process. There is also, the additional public interest in ensuring that the Audit process is valued and fully supported by senior managers. Managers may not encourage the use of the Internal Audit process in areas where it is most needed, preferring to focus on areas known to be effective already, thus minimising its value. This could lead to a failure to identify and address inefficiency or ineffectiveness in key business areas to the significant detriment of public interest.

I am satisfied that there is an obligation of confidentiality and that the information does contain the necessary quality of confidence and the tests of confidentiality have been met. The Public Interest has also been addressed by the Stewardship Statements, which are published annually.

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 letter.

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 @ [www.psnipolice.uk](http://www.psnipolice.uk)

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