



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2009-00327

**Keyword:** Human Resources

**Subject:** PARTICULAR/EXCEPTIONAL CASE POLICY/PROCEDURE (Cont)

**Request and Answer:**

**Previous request F-2008-05304 refers:**

**Following a response which identified 7 police officers as having been awarded Particular Case awards following cancer related surgery/illness please advise:**

### **Question 1**

On how many occasions did officers make more than one application for Particular Case award?

### **Question 2**

How many of the cases awarded were for a second or further investigative cancer related surgery, i.e. each officer who has had cancer and the recurrence of cancer has had to be investigated?

### **Question 3**

How many of the 7 staff was provided disability related sickness absence/leave for this surgery/recovery period?

### **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 (FOIA) 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:

The exemption is as follows:

1. Section 40(2)(a)(b) – Personal information

Section 40(2)(a)(b) is an absolute exemption which means there is no requirement on the police to consider whether

there is a public interest in disclosure. 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 the 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 health records 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 health and welfare purposes 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 PSNI for the purpose of informing and maintaining their sickness records 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.

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.psnipolice.uk/>

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