



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-02960

**Keyword:** Complaints/Discipline

**Subject:** Discipline of Police Inspectors in D District

### Request and 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 information in response to questions 1 and 2 in full;
- neither confirm nor deny that the PSNI hold records in answers to questions 3 and 4 pursuant to the provisions of Section 40 and 30 of the Act.

### Question 1

How many Police Inspectors in D District have been prosecuted with respect to motoring offences since 1<sup>st</sup> March 2011 until present, if so what were the offences?

### Answer

There have been no PSNI Inspectors attached to D District prosecuted for motoring offences since 1<sup>st</sup> March 2011 to present (i.e. 27<sup>th</sup> September 2011)

### Question 2

How many Police Inspectors in D District have been disciplined since 1<sup>st</sup> March 2011 (clarified as incidents arising since 1<sup>st</sup> March 2011 and subsequently investigated), if so what disciplinary offences have they been accused/charged with, or had proven?

### Answer

There have been no PSNI Inspectors attached to D District disciplined under the RUC (Conduct) Regulations 2000, as a result of misconduct or criminal investigation initiated since 1<sup>st</sup> March 2011.

### Question 3

How many Police Inspectors in D District have been reported for prosecution with respect to motoring offences since 1<sup>st</sup> March 2011 (clarified as incidents occurring since March 2011), if so what were the

offences?

#### **Question 4**

How many Police Inspectors in D District are in the process of being disciplined since 1<sup>st</sup> March 2011 (clarified as incidents arising since 1<sup>st</sup> March 2011 and subsequently investigated), if so what disciplinary offences have they been accused/charged with, or had proven?

#### **Answer**

In accordance with the Act, this letter represents a Refusal Notice for these particular questions. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(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) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to this question as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

#### **Section 40 (5) (a) (i) – Personal Information**

#### **Section 30(3) – Investigations**

#### **Section 40(5) – Personal Information**

The release of information under Freedom of Information is a release into the public domain, and not just to an individual. To confirm that the PSNI hold the requested information would in fact confirm whether or not Inspectors attached to D District are currently the subject of an investigation or criminal proceedings would amount to release of personal data into the public domain. The individuals would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Although Section 40 is an absolute class-based exemption, a Public Interest Test is required for the purposes of NCND.

#### **Section 30(3) – Investigations**

This is a class based and qualified exemption. If the information were held it must fit into the class of information covered by this exemption. If the information were held it would be held for the purposes of an ongoing investigation to determine whether any police Inspector has committed a criminal or misconduct offence and therefore clearly falls within the class of information provided by this exemption.

As section 30 is a qualified exemption a public interest test is necessary.

## Public Interest Test

### Factors Favouring Confirmation Or Denial – Section 40

Confirming or denying whether the PSNI hold this information would enable the public to have a better knowledge of what information is recorded by PSNI and therefore a better understanding of the decision making process when it comes to the disclosure of personal details.

### Factors Against Confirmation Or Denial – Section 40

Any disclosure under FOIA that may identify individuals will breach principles 1 & 2 of the Data Protection Act 1988 and therefore the breach of any individual's data protection rights would be caused by confirmation or denial. This is so whether or not the information is held.

### Balance Test – Section 40

Whilst there is a public interest in the transparency and accountability of the Service, there is also a strong public interest in maintaining confidence in the PSNI with regard to its handling of an individual's personal data. Confirmation or denial of whether the PSNI hold information of this nature would amount to a release of personal data, i.e. whether or not Inspectors attached to D District are currently the subject of an investigation or criminal proceedings. Whilst the PSNI would always wish to be transparent and accountable, no release under FOI should be made where an individual's data protection rights would be breached. Police officers will have an expectation that their personal information will be treated fairly and any disclosure into the public domain that relates or could be used to identify officers will be unfair.

### Factors Favouring Confirmation Or Denial – Section 30

The behaviour of Police officers is always high on the public agenda. If the information were held, confirmation would provide reassurance that Police officers do not receive special treatment and that investigations are conducted into errant officers.

### Factors Against Confirmation Or Denial – Section 30

Confirming or denying there are ongoing investigations into the alleged wrong-doing of particular officers may compromise subsequent criminal or misconduct proceedings. Should a prosecution fail as a consequence of a premature disclosure of information, the public may lose confidence in the ability of the PSNI to bring offenders to justice. This will have a negative impact on the prosecution process. This could result in a reduction in the flow of information and evidence, which would have a negative impact on the PSNI's ability to carry out its core functions.

### Balance Test – Section 30

The points above highlight the merits of confirming or denying the requested data exists. There is a public interest in the transparency of policing and providing assurance that allegations/reports of police misconduct are dealt with appropriately, and in the accountability of the Police and how they operate. This is the most compelling argument for release.

There is strong public interest in safeguarding the integrity of police investigations. Confirming or denying that the PSNI holds information in relation to current investigations may undermine any such investigation and subsequent Court proceedings. Therefore, the strongest argument for non-release is the potential harm to the prosecution process, and there can be no public interest in compromising this process. The potential harm to current and/or future investigations outweighs any public benefit in knowing if any information is, or is not held, therefore this exemption is engaged.

No inference can be taken from this refusal that the information you have requested in questions 3 and 4 does or does not exist.

If you have any queries regarding your request or the decision please do not hesitate to contact the Freedom of Information Team 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 in accordance with our complaints procedure. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information Team, 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 you remain dissatisfied in anyway with the handling of the request you may make a complaint to the Information Commissioner 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](http://www.psni.police.uk). Personal details in respect of your request have, where applicable, been removed to protect confidentiality.