



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-02861

Keyword: Human Resources

Subject: AMPs in B District

Request and Answer:

Question 1

How many Disabled staff in B District have attended AMP in 2011?

Question 2

What was the outcome?

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, as well as the factors the Department considered is listed below:
Section 40(2)(a)&(b) by virtue of Section 40(3)(a)(i) – Personal Information

Section 40 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.

Section 40 is also an Absolute exemption and therefore a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998).

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). Your request contains questions that to answer would require me to release personal details about individuals other than the applicant. The specific information requested, refers to disabled staff members who have attended an Absence Management Panel (AMP) for sickness related absence

and the outcome of the panel. This information is processed to learn or decide something about those individuals.

Information has been previously released to you and the PSNI is satisfied that you are a serving police officer and your internal email address has been used for the purposes of correspondence. As part of your previous requests, information was released in relation to AMP's in B District.

There is the potential to identify someone from the data either through a comparison of what is already available or as an incidental consequence. There is a risk that information released as part of this request could be used in conjunction with other information already known or available about AMP's in B District.

Any disclosure under FOIA that could highlight data relating to the medical condition of an individual will breach principle 1 of the Data Protection Act 1998.

Principle (1), that personal data is processed lawfully and fairly. Personal data of this nature is recorded for the purpose of staff administration. It must be treated in a highly confidential manner and any public disclosure would be unlawful if there is a breach of that law of confidentiality. 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.

The information relates specifically to B District and contains low level data which could identify disabled members of staff who have attended AMP's due to their sickness absence. Information of this nature is deemed Sensitive Personal Data and disclosure will need to satisfy at least one condition in Schedule 3 of the DPA as well as in Schedule 2.

Explicit consent has not been given by any individual and neither has the information already been made public by the individuals concerned. None of the conditions have been met and to release information relating to those individuals who have attended AMP's because of their sickness absence would be unlawful under Schedule 3 of the DPA, therefore S40(2) of the FOI Act is engaged.

Disclosure of this information requires a condition under Schedule 2 of the Data Protection Act to be met. Condition 6 is the only one that can be used for an FOIA request and this deals with the legitimate interests of the third party to whom the data is to be disclosed. As FOI is a public disclosure there must be a legitimate public interest. Release must be necessary to meet the public interest and it must not cause any unwarranted harm. The purpose of FOI is to provide greater openness and transparency within public authorities and not a means to obtain information about small groups of employees. In this case, disclosure does not meet the requirements of Schedule 2, condition 6 of the Data Protection Act 1998.

In conclusion, the specific data should not be disclosed as it is sensitive personal data that could lead to the identification of personnel, focusing on their sickness absence and medical condition. This type of data is processed for a 'staff administration purpose' under Data Protection legislation.

A disclosure under the Freedom of Information Act is a release of information to the world in general, not just to the individual applicant.

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice and the request has therefore been closed.

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.

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.psni.police.uk

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