



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-00363

Keyword: Human Resources

Subject: HET Management

Request and Answer:

I write in connection with your request for information dated February 9, 2011

At the outset, I must advise that any request made under the Freedom of Information Act 2000 (FOIA) will be treated as applicant blind. Although the public authority will have a name and address for correspondence this is not an overriding factor in arriving at any decision to release information.

In every case, information will be released under FOIA into the **public domain** and therefore the Police Service of Northern Ireland (PSNI) must be satisfied and content with a number of issues relating to any harm that may be caused by disclosure and the public interest etc.

The Police Service of Northern Ireland (PSNI) has reviewed the material held and has considered your request for information. It has been decided to release the information you have requested with the exception of question 5 to which exemptions at Section 41 and Section 43 are engaged. (This will be explained in full later in this reply).

Question 1

Can you inform me as to how many staff is employed by the HET currently?

Answer

127

Question 2

How many of these are agency workers?

Answer

122

Question 3

And how many are on permanent contracts and how many are on temporary contracts?

Answer

4 Permanent.
1 Fixed term contract.

Question 4

Is Grafton Recruitment still the provider of all agency workers and has Grafton held that contract now since the inception of the HET?

Answer

Grafton ESP currently provides all agency staff to the HET.

No, Grafton ESP was awarded Master Vendor for HET from April of 2009 and as such has supplied all agency staff since.

Question 5

How much money has been paid to agency workers and Grafton since 2009?

Answer

From 2009 to end of January 2011, £7,360,521 has been paid to agency workers.

Please see below with regard to how much was paid to Grafton.

Section 17(1) of the Freedom of Information Act 2000 requires the PSNI, 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.

With regard to question 5 (part 2).the exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 41(1) Information Provided in Confidence
Section 43(2) Commercial Interests

Section 41(1) Information Provided in Confidence

There are two components to this exemption;

The information must have been obtained by the public authority from another person.

Disclosure of the information would give rise to an actionable breach of confidence.

The requested information forms part of the contract under which Grafton ESP provide temporary staff to the PSNI. (Temporary staff is also provided to HET under this same contract).

I refer to [ICO advice](#) that, there may be circumstances where information contained in the contract is obtained by the public authority from the other party as part of the contractual process. I have also referred to the Information Tribunal Decision [EA/2006/0014](#); 11 December 2006 and ICO Decision Notice [FER0079969](#), both of which contain advice that commercial information obtained in the course of a tendering/contractual process may be regarded as obtained under an obligation of confidence.

I have also considered whether the requested information has the necessary quality of confidence. There are two key elements to this:

The information need not be highly sensitive, nor can it be trivial.

The information must not be readily available by other means.

I have already commented upon the sensitivity of the requested information and I would again refer to Decision Notice, [FER0079969](#) in which the Commissioner accepted that a similar type of information was not trivial. I have also carried out searches and have established as far as possible that the information is not available by other means. I am satisfied therefore that the elements of the exemption are satisfied, and that the exemption is engaged.

Section 41 is a classed based, absolute exemption so therefore no Public Interest Test is required under the Act.

Section 43(2) Commercial Interests

A commercial interest relates to a person's ability to participate competitively in a commercial activity, i.e., the purchase and sale of goods or services.

In order to decide whether or not disclosure could prejudice commercial interests it is necessary to identify the interests themselves and how disclosure might prejudice them, and whose interests they are.

Grafton ESP have indicated that details of their profit margins/percentages are market sensitive information, which if released into the public domain would be useful to its competitors in terms of future competitive tender bids, not only for PSNI contracts but also for other Public Sector contracts. They reiterate that pricing models are generally uniform across recruitment providers, therefore increasing the sensitivity of details of the margin/percentage. In other words this information could be used by Grafton's competitors to undercut them in future tender processes, as stated for PSNI and other contracts. This would prejudice Grafton's commercial interests in two ways;

They would have to adjust any future bids in anticipation of being under-cut thereby resulting in reduced revenues

They may not be awarded future contracts as a result of being under-cut directly as a result of release of this information.

This part of Section 43 is a classed based, qualified exemption so therefore a Harm Test and a Public Interest Test must be carried out.

Harm Test Section 43

Pricing models are generally uniform amongst recruitment providers and therefore it would be readily apparent to Grafton's competitors how their pricing model was applied. As Grafton's contractual margins are not in the public domain the release of such information would prejudice Grafton ESP's position in bidding for other contracts.

Given that a tendering process for the contract may be imminent, the timing of the release of the information would prejudice the ability of Grafton ESP to participate in the new process as our

competitors will be able to make submissions in the knowledge of how the tender was won on the last occasion.

Public Interest Test Section 43

For Release

Release of this information would further the understanding of, and participation in the debate surrounding the PSNI and HET's use of temporary staff and the contract with Grafton ESP in particular.

Accountability and transparency in the spending of public money would be facilitated particularly given the substantial value attached to this contract.

For Retention

Disclosure would make it less likely that companies or individuals would wish to provide the PSNI or other Public Authorities with any commercially sensitive information in the future therefore making procurement processes more difficult and potentially putting off potential bidders. The outcome of this would be likely to increase tender amounts and consequently the cost to public funds.

There is a clear public interest in ensuring the PSNI is able to provide quality investigative policing and support services and value for money in respect of its use of public money. Both of these objectives will be threatened if a presumption is created in favour of the general disclosure of more detailed information than currently published, relating public sector contracts.

The general public interest in the transparency and accountability of the PSNI in respect of its use of public funds is catered for by public accounts and audit systems already in place and by routine release of information on public sector contracts at a higher level.

Decision

Although there is a strong interest in understanding the way in which public money is spent it is not clear that disclosure in this case would be of significant benefit to the public. In order for information of this nature to be of great value to the public they would require access to information about the profit margins of other employment agencies that provide temporary staff to other police forces or other public authorities. Even then it is the total cost that would be a more significant factor, and not the profit margins. As stated the total cost has already been provided in this case as per general policies in relation to public sector procurement. Without information about other employment agencies profit margins the requested information is of no value to the public as a whole; however it would have a particular value within the industry potentially exposing the Grafton ESP to commercial prejudice as identified above. The prejudice to the Grafton ESP's commercial interests and the maintenance of confidentiality are significant factors in favour of maintaining both exemptions.

Information that may be of interest to you, relating to the work of the HET can be accessed by clicking on the below link:

<http://www.psni.police.uk/historical-enquiries-team/het-introduction.htm>

If you have any queries regarding your request or the decision please do not hesitate to contact the Freedom of Information Team, on 028 90700164. When contacting 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.