



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-01180

Keyword: Organisational Information/Governance

Subject: CPS - Guidelines

Request and Answer:

This is to inform you that the Police Service of Northern Ireland has now completed its search for the information you requested. The decision has been taken to disclose the located information to you in full.

Question

When you are involved in cash recovery proceedings in Court do you adhere to CPS guidelines in how to conduct a case, in particular do you make disclosure of all information even that which might weaken your case or otherwise assist the defendant.

Answer

No.

CPS (Crown Prosecution Service) guidelines do not apply to Northern Ireland. Northern Ireland has its own Public Prosecution Service, which has a Code for Prosecutors. This code is not adhered to by PSNI in cash recovery proceedings in Court as such proceedings are entirely civil in nature and prosecutorial codes do not apply.

Question

If you don't adhere to CPS guidelines what standards do you operate to?

Answer

PSNI does not have any Service Procedure or other "standard" that applies to cash recovery proceedings. Cash recovery proceedings in Court are conducted within a legislative framework that comprises the Proceeds of Crime Act 2002, Magistrates' Courts (Detention and Forfeiture of Seized Cash) Rules 2003 and the Civil Evidence (Northern Ireland) Order 1997.

Cash recovery proceedings are either:

1. stand alone proceedings where there are no related criminal proceedings or,
2. related to and coincidental with criminal proceedings, in which case the cash recovery proceedings will usually be adjourned until the criminal proceedings are concluded. Disclosure, including disclosure of material that could assist the Defence or weaken the Prosecution, is conducted in the criminal case in accordance with the provisions of the Criminal Procedure and Investigations Act 1996.

In either case at 1 or 2 above, the cash recovery proceedings are purely civil in nature and the provisions of the Criminal Procedure and Investigations Act 1996 do not apply to them. There are no statutory provisions within the Magistrates' Courts (Detention and Forfeiture of Seized Cash) Rules 2003 that oblige either party to provide disclosure. In seeking to comply with the rules of natural justice, however, the developed practice is that there is disclosure by PSNI in advance of hearing of any material that PSNI intends to rely upon in support of its case. Similarly, PSNI expects mutual disclosure from the Respondent of any material upon which he/she intends to rely.

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.