



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-04118

Keyword: Organisational Information/Governance

Subject: Hourly Rate PSNI Pay To Resource

Request and Answer:

Your request for information has now been considered and the decision has been taken not to supply the information you have requested.

Question 1

I request information in relation to the hourly rate paid to Resource by the PSNI for staffing on Bank and Public Holidays.

Question 2

I request information in relation to the hourly rate paid to Resource by the PSNI for staffing.

Answer

Section 17(1) 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 when deciding where the public interest lies, are listed below:

Section 43 (2) – Commercial Interests

Commercial Interests is a prejudice based exemption which means that the public authority must demonstrate that it is satisfied that to release the information would damage someone's commercial interests. It is also a qualified exemption which means that the public authority must consider the balance of the public interest in releasing the information against the public interest in withholding it.

Contracts are awarded following a procurement process in which tenders are invited from interested parties. As one means of ensuring fairness in the process, each party does not know the details of any of the other parties tenders. To release the details of the tender of any party would harm any

current/future tendering processes conducted by the PSNI as persons tendering would do so on the belief that their particular details would not be made public thus giving other persons an advantage.

Factors Favouring Release – Section 43

Where a tendering process is undertaken by any organisation, it ultimately means that there will be a decision at the end of it as to who the contract should be awarded to. Releasing the information would promote openness and transparency and that the PSNI are getting value for money when purchasing goods and services. Transparency of decisions of how public funds are spent will also generate confidence in the integrity of the procedures involved.

Factors Favouring Retention – Section 43

The releasing of commercially sensitive information such as the hourly rate may make it less likely that companies or individuals would provide the PSNI with all relevant information in the future and consequently undermine the ability of the PSNI to fulfil one of its roles of running fair tender competitions.

During any tender process companies compete by offering something different from their rivals and any difference will often be reflected in their price. Information identifying this unique element such as the hourly rate is likely to be commercially sensitive and may also inadvertently reveal information about profit margins.

If PSNI release any commercially sensitive information contained within tenders this would be likely to damage the PSNI business reputation and possibly the confidence that future customers may have in it.

Decision

To release the specific details of the hourly rate that PSNI pay Resource for contract staff may affect the pricing of future tenders. It would therefore not be in the public interest to release the information, as it would, without doubt harm the process of future tenders. Any future prospective customers would expect to be involved in the process on a fair and equal basis with no advantage given to others. If prospective customers believed that commercially sensitive information would be released into the public domain they may decide not to submit a tender, meaning the PSNI may have to accept a higher tender which would not necessarily be value for money for the public. Unfortunately the likelihood of this happening is impossible to determine, but it would be fair to say that it is more than a remote possibility. Under FOI no release of information into the public domain should be given that will give one person a commercial advantage over another and the exemption under S43 (2) of the Act caters for this situation.

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.