



FREEDOM OF INFORMATION REQUEST



Request Number: F-2013-04517

Keyword: Organisational Information/Governance

Subject: Police Officers and Staff Tested for Substance Misuse

Request and Answer:

This is to inform you that the Police Service of Northern Ireland (PSNI) has now completed its search for the information you requested. The decision has been taken to disclose some of the located information and exempt the remainder pursuant to certain exemptions.

Question 1

During the last five years how many officers/police staff have been subject to drug/substance testing?

Answer

Since 1st January 2009, 482 police officers and police staff have been subject to drug/substance testing.

Question 2

How many have been conducted on a yearly basis, i.e., 2009-2010, 2010-2011 etc

Answer

The table below outlines the number of drug tests that have been carried out on an annual basis;

Year	Number of Drug Tests
2009	243
2010	84
2011	128
2012	4
2013	23
Total	482

Question 3

What substances are tested for?

Answer

Substances that will be tested for are those listed in the Misuse of Drugs Act, and include; amphetamines (including ecstasy), benzodiazepines, cannabis, cocaine, opiates and ketamine.

Question 4

On a year by year basis how many officers have tested positive? Please provide sanctions i.e. dismissal, words of advice, criminal proceedings

Answer

The table below outlines the number of officers who tested positive for illegal drugs:

Year	Number of Officers who tested positive	Action Taken
2009	2	1 officer resigned prior to the conclusion of misconduct proceedings 1 officer received a caution at a formal misconduct hearing
2010	0	
2011	0	
2012	0	
2013	0	

Neither of these officers were criminally charged. The only evidence against the officers is their drug test results, which is insufficient to prove possession of a controlled substance. This is a matter in which there is precedent case law. Specifically in the case of *Hambleton v Callinan* (1968) it was held that where traces of amphetamine powder has been found in urine samples, the Divisional Court upheld the decision of the Magistrates Court to acquit the defendants, holding that the defendants were not in possession of the powder as it had been consumed and its character had altered.

Question 5

How many of the tests have been intelligence led and what were their results?

Answer

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland (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(s) in question
- (c) states (if not otherwise apparent) why the exemption applies

The exemptions are as follows:

Section 41(1)(a)(b) Information Provided in Confidence

Section 31(a)(b) Law Enforcement

Section 38(1)(a)(b) Health and Safety

Section 41 is a class based and absolute exemption. The provision of information to the Police Service by individuals remains critical to the prevention and detection of crime. In many cases this information is supplied only as a result of assurances of confidentiality. Any breach of confidentiality that leads to the identification of informants may have serious consequences. Apart from the serious consequences that arise in any individual case, the disclosure of information relating to sources of

intelligence is likely to reduce the supply of information to the police and subsequently have a detrimental effect on the effectiveness of the Police Service to prevent and detect crime.

Both Sections 31 and 38 are prejudiced based and qualified exemptions. The prejudice must be identified and this must be challenged by a public interest. The harm and public interest test can be found below.

Harm Test

The PSNI would not want to reveal to the world that it had received intelligence in relation to the use of illegal drugs, as disclosure would reveal the focus of police enquiries which could be useful to individuals engaged in unlawful activity e.g. drug taking.

People must have confidence that information they provide to police is treated sensitively and appropriately. A lack of confidence will result in a reduced flow of information to the police as persons will be reluctant to provide information if there is a risk of that information being released or their identity compromised.

Disclosing information that could compromise the identity of an individual would breach the data protection rights of that person, and display an attitude that the police service is reckless in regards to placing an individual at risk, for example an informant involved in a sensitive operation.

Public Interest Test

Factors favouring the release of the information

There is a general public interest in the way that police work and for public bodies to be accountable for their actions. Information, which enables the efficiency and effectiveness of a Service to be scrutinised, will be of benefit to the community. The behaviour of police officers and how they are dealt with is always high on the public agenda. Releasing information sourced from intelligence could assist the public debate into the police use of intelligence.

Factors favouring the retention of the information

A disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. The police service would not want to reveal to the world that it had received intelligence in relation to the illegal use of drugs, nor the efficiency of this intelligence. Such a disclosure would reveal the focus of police enquiries which would be useful to individuals engaged in unlawful activity e.g. drug taking.

Public Interest Decision

The need to protect the flow of information to the Police Service is fundamental to assisting the prevention and detection of crime. Protecting the safety and identity of informants and intelligence sources is of paramount importance and the Police Service would vigorously safeguard any information in relation to this.

There can be no public interest in releasing information that would compromise law enforcement and tactical options and therefore this information will not be disclosed.

The information supplied has been compiled by Service Improvement Department, which has ownership of the PSNI Service Procedure in relation to substance misuse and internal discipline relating to police officers.

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.psnipolice.uk

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