

FREEDOM OF INFORMATION REQUEST



Request Number: F-2014-01572

Keyword: Organisational Information/Governance

Subject: Hearing Loss

Request and Answer:

Question 1

Were the lawyers acting for the PSNI paid on a salaried basis or on a fee-per-case basis?

Question 2

If they were paid on a salaried basis what were their salaries?

Question 3

And if they were paid on a fee-per-case basis what would that fee have been?

Question 4

What are the names of the medical experts that provided the opinions on which the awards were made?

Question 5

Did they also perform the audiograms that formed the basis for their opinions?

Answer

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information

I have today decided to:

- disclose information in response to questions 1 to 3 and question 5 in full; and
- fully exempt information in response to question 4 pursuant to the provisions of Sections 40 and 38 of the Act.

Question 1

Were the lawyers acting for the PSNI paid on a salaried basis or on a fee-per-case basis?

Answer

The PSNI do not hold any details on the payment of the Crown Solicitors Office lawyers (CSO) acting on behalf of the Service but I have been advised that they are civil servants. Civil servants receive a salary in accordance with the civil service pay scales. The PSNI lawyers are also salaried staff.

Question 2

If they were paid on a salaried basis what were their salaries?

Answer

The PSNI do not hold any information on the grades of the CSO lawyers. The PSNI lawyers are equivalent in rank to a Deputy Principle, Grade 6, in the Civil Service and the appropriate pay scales for those grades can be found on the DFPNI website. I have included a link to the website below.

www.dfpni.gov.uk/2012-13 and 2013-14 proposed pay scales 2.pdf

Question 3

And if they were paid on a fee-per-case basis what would that fee have been?

Answer

Not applicable as all the lawyers are salaried.

Question 4

What are the names of the medical experts that provided the opinions on which the awards were made?

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/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 40 (2)(a)(b) by virtue of 40(3)(a)(i) – Personal Information Section 38 (1)(a)(b) – Health & Safety

Section 40 is an absolute and class-based exemption which means that there is no requirement on the PSNI to conduct a Public Interest Test or to show the Harm in release as the data protection rights of a third party would be breached by disclosure. This is so because personal data is governed by other law (The Data Protection Act 1998). When information contains personal data about a third party it can only be released if disclosure would not breach any of the data protection principles.

Principle 1 is that personal data must only be processed lawfully and fairly.

The Service would be failing in its lawful duty were it to breach the Data Protection Act in order to furnish a disclosure under the Freedom of Information Act 2000. The Service has a duty to protect the personal data of all individuals. Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 38 is a qualified and prejudice-based exemption which means that the legislators have determined that it is necessary to conduct both a Harm Test and a Public Interest Test. The factors taken into consideration when considering the Harm and the Public Interest are detailed below.

Harm Test

Disclosure of the names of the medical experts could put these individuals at risk and impact on their safety. The service is currently under severe threat from terrorists and releasing names of persons associated with the PSNI could assist terrorists in targeting individuals.

Public Interest Test

Factors Favouring Release

Releasing the information would promote openness and transparency. The public would be better informed about those engaged by the PSNI to provide a service to the PSNI.

To release the names would also satisfy the public that a professional medical investigation was undertaken into the hearing loss claims.

Factors Against Release

Releasing into the public domain the names of medical experts who are engaged by the PSNI would be likely to bring them to the attention of terrorists. The threat from terrorists can take a number of forms as terrorists may use a variety of methods to try and achieve their objectives. To identify specific individuals working for the Police Service under the current level of security threat would endanger their personal safety and that of their families as well as putting their property at risk from terrorist attack.

Decision

Whilst accountability surrounding the use of medical experts is a strong argument in favour of releasing information the balance will always favour retention where there is a significant risk to the safety of individuals. Individuals engaged by the PSNI entrust that appropriate decisions are taken with regard to their protection. At this time the Service is under severe threat from dissident terrorists and to release the names of individuals providing a service to the PSNI could assist terrorists in targeting these individuals. The safety of individuals is of paramount importance and the PSNI will not divulge any information which could put lives at risk. I therefore believe that the prejudice caused by disclosure outweighs any benefit to the public. At this time, and in these circumstances, I have determined that the release of names of the medical experts into the public domain would not be in the public interest.

Question 5

Did they also perform the audiograms that formed the basis for their opinions?

Answer

The PSNI can confirm that in some instances the ENT consultant personally carries out the audiograms whilst in other cases an audiologist is used to perform this task.

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.