



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-02246

Keyword: Complaints/Discipline

Subject: Accusations Of Sexual Misconduct Against Officers

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland holds information to which your request relates and this is being provided to you. We further consider the information you seek in request numbers 1A and 1B is exempt by virtue of Sections 30 and 40 of FOIA and have detailed our rationale as to why this exemption applies. We have also provided you with links to guidance issued by the Information Commissioner's Office which we have followed in responding to your request.

Request 1 A

I am writing to request information regarding recorded accusations of sexual misconduct against police officers in your force in the last five years, from the most recently available data.

The information I am requesting is:

The number of complaints of sexual misconduct against police officers serving at your force per year for the last five years.

Request 1 B

This includes where recorded:

- the gender and rank of the subject of the complaint
- where relevant to the complaint, the gender and rank of the complainant

or position as police support staff

- the date it was recorded
- a summary of the allegation
- the location of the incident,
- if it occurred on or off duty
- the date and outcome of any investigation.

Answers 1 A and 1 B

The information requested has been provided as separate data in the separate spreadsheet, due to this information being regarded as low level and sensitive personal data and to ensure that the information provided cannot be correlated together.

I can advise that there are a total of 4 of cases that are ongoing investigations and therefore the

information has been withheld in full for the reasons as outlined.

In addition the 'location of all the incidents' have been withheld again as this information is sensitive personal data.

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

Section 30(1) Investigations and Proceedings Conducted by Public Authorities - Information held by a authority is exempt information if it has been held at any time by the authority for the purposes of:
(a) Any investigation which the public authority has a duty to conduct with a view to it being ascertained (i) whether a person should be charged with an offence,

Section 40(2)(a)(b) by virtue of 40(3)(A)(a) Personal Information – Information constitutes personal data and disclosure would contravene any of the Data Protection principles.

We have explained below in our response why these exemptions are engaged and the full text of exemptions can be found at www.legislation.gov.uk. Further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on the PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA') Third party personal information in relation to names, and therefore this information constitutes information which can identify individuals is 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. I have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As this information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed 'fairly and lawfully'. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the sensitive nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and the PSNI has made the decision to withhold that information.

Public Interest Test
Factors Favouring Disclosure - Section 30

There is a strong public interest in ensuring that this and any other investigation is or has been undertaken professionally and rigorously by the PSNI. Disclosure of the requested information could promote public trust in providing transparency and demonstrating openness and accountability into how investigations take place. Releasing the information may better inform the public and encourage others to come forward with evidence that could assist in the detection and apprehension of an offender/s if they know a proper investigation will be undertaken. All police investigations involve the use of public funds and this information could allow the public to make informed decisions about police procedures and the money spent in this business area.

Factors Favouring Non-Disclosure - Section 30

The requested information is held for the purposes of an investigation and if PSNI were to release the requested information at this time it could undermine any future review of this case. Evidence needs to be preserved and not prematurely released so that the course of justice is not impeded should any new evidence come to light. Disclosure of any such information could infringe not only on a suspect's right to a fair trial but also on the rights of the victim(s) if a prosecution were to fail due to disclosure of the information.

Decision

On balance the requirement to withhold information relating to any criminal investigation which may affect the outcome of any court proceedings must take precedence. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The PSNI will not divulge information if to do so would adversely affect any ongoing investigations. Whilst there is a public interest in the transparency of the law enforcement role of the Police Service and providing assurance that the PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of the police service. The PSNI has a duty to fulfil its law enforcement role and whilst there is a public interest in the transparency of policing activities and the appropriateness of how public funds are allocated, in Policing, the delivery of effective law enforcement is a priority.

The release of information under the Freedom of Information Act is a release into the public domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

Request 1C

The total number of active police officers serving at your police force per year for the last three years.

Answer

Please find the information of total police officers serving requested in the table below:

Police Officers	Total
As at 01 April /2016	7209
As at 01/April 2017	7109
As at 01 April 2018	7027

*Figures include Student Officers and Part Time Reserve Officers.

*Figures exclude Career Breaks and Secondments

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.