

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-00405

**Keyword:** Complaints/Discipline

**Subject:** Misconduct / Gross Misconduct Proceedings

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1) (a) of the Act we can confirm that the Police Service of Northern Ireland (PSNI) does hold the information to which your request relates and this is being provided to you. We further consider that the information you seek in relation to Request 2, is partially exempt by virtue of section 40 of Freedom of Information Act 2000 (FOIA) and we 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

For each calendar year 2019, 2020 and 2021 and the period 1st January 2022 to 14th February 2022, please answer the following questions:

#### Request 1

How many of your police officers faced misconduct or gross misconduct proceedings (i.e officers employed by your force at the time the alleged misconduct took place)?

### Answer

Please see the table below outlining the number of police officers that faced misconduct or gross misconduct proceedings for the requested time period.

Year	Number of officers
2019	53
2020	40
2021	38
2022 (up to 14 <sup>th</sup> February)	4
<b>Total</b>	<b>135</b>

#### Request 2

For each case, please provide the officer's name (if permitted), rank and a description of the misconduct type (i.e sexual misconduct, assault, discriminatory behaviour, etc)

## Answer

PSNI have made the decision to exempt information relating to the officers names under Section 40 of the FOIA. We have however provided the rank of the involved officers and a description of the misconduct types below.

Please see the first table below outlining the rank of the officers facing misconduct or gross misconduct proceedings, broken down as per the requested time period.

Rank	2019	2020	2021	2022 (up to 14 <sup>th</sup> February)
Inspector	2	3	1	1
Sergeant	4	4	0	0
Constable	47	33	37	2
Police Officers Part Time	0	0	0	1

In response to the misconduct type aspect of Request 2, please see the tables below for each of the Requested years.

2019 - Misconduct Type	Total
Breach of business interest policy	2
Common assault	1
Data protection	11
Dishonesty in relation to promotion process	1
Driving without insurance/MOT and harassment	1
Erection of inappropriate sign on police premises	1
Excessive use of force	2
Failure in duty	5
Failure to assist police investigation	1
Failure to investigate	2
Failure to maintain accurate records	1
Failure to report for duty	1
Failure to report misconduct	1
False injury claim	1
Inappropriate comments	6
Inappropriate language	1
Inappropriate social media activity	2
Inappropriate touching	1
Inappropriate WhatsApp messages	3
Mishandling of police property	4
No MOT	1
Recording of inappropriate video	1
Unprofessional behaviour	4
Use of drugs	1

2020 - Misconduct Type	Total
Breach of accommodation standing orders	1
Breach of Non-Molestation Order	1
Data protection	2
Dishonesty in relation to a fine	1
Disorderly Behaviour	1
Excessive use of force	1
Failure in duty	1
Failure to investigate	16
Failure to obey lawful order	2
Failure to supervise	2
Failure to update	1
Fraudulent overtime claims	1

Harassment	1
Inappropriate comments	1
Inappropriate relationship	1
Inappropriate sharing of information	1
Inappropriate social media activity	1
Inappropriate WhatsApp messages	2
Mishandling of police property	1
Officer was dishonest and firing a round whilst off duty	1
Unauthorised Covert Human Intelligence Sources approach	1
Unprofessional behaviour	1

2021 - Misconduct Type	Total
Breach of business interest policy	1
Breach of Covid regulations	4
Data protection	4
Dishonesty in relation to medical diagnosis	1
Dishonesty in relation to negligent discharge	1
Excess speed	1
Failure to investigate	5
Failure to maintain accurate records	1
Failure to report for duty	1
Failure to report misconduct	1
Failure to secure firearm	1
Inappropriate comments	2
Inappropriate relationship	1
Inappropriate social media activity	2
Inappropriate use of a police vehicle	2
Malpractice	1
Mishandling of police documents	1
Mishandling of police property	1
Negligent discharge	1
Sexual misconduct	1
Unprofessional and Disrespectful Behaviour	1
Unprofessional behaviour	2
Use of drugs	1
Wearing of unapproved emblem	1

2022 - Misconduct Type	Total
Misconduct in a public office	1
Inappropriate comments	1
Failure to secure firearm	1
Breach of Covid regulations	1

In terms of providing the names of the officers involved, the PSNI are withholding this information under Section 40 of the FOIA. We have explained our rationale for this below.

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 Section 40(3) (A) (a) – Personal Information.**

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

### **Section 40 (2)**

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on 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 constitutes '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. We 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 in a 'lawful and fair' manner. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. The PSNI has a duty to protect the personal data which includes police officers and police staff. To release names of officers facing misconduct or gross misconduct proceedings into the public domain could be used to identify persons and will be unfair to any individual concerned. Police Officers must have confidence that their information is treated sensitively and appropriately. We consider it would be extremely unfair to those individuals and therefore it would be a breach of the first principle of data protection legislation as we consider those individuals would not have any reasonable expectation that PSNI would not disclose information of this nature relating to them. 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 the information.

**The release of information under the Freedom of Information Act is considered 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 information is shared with other individuals, therefore a release under FOI is considered a release to the world in general.**

### **Request 3**

For each case, please confirm the outcome of the misconduct or gross misconduct proceedings; any disciplinary action taken and whether the officer remains employed by your force

### **Answer**

Please see the table below outlining the outcome and disciplinary action taken for the misconduct or gross misconduct proceedings, broken down for the requested time period.

<b>Outcome</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022 (up to 14<sup>th</sup> February)</b>
Dismissed with notice	3	2	3	0
Final written warning	11	6	7	0
Written warning	13	8	13	1

Fined	1	0	0	0
Management advice	11	12	11	1
No further action	8	7	0	1
Dismissed without notice	0	2	3	1
Reduction in rank	0	2	0	0
Performance	0	1	0	0
Required to resign	0	0	1	0

**Please note:** Those officers who were not dismissed or required to resign remain employed by the PSNI.

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 Corporate Information Branch, 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 Corporate Information Branch, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto: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](http://www.psni.police.uk)

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