



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-00614

Keyword: Human Resources

Subject: Minutes for SPEB Meetings

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 does hold information to which your request relates and this is being provided to you. We further consider some of the information you seek is exempt by virtue of Section 40 and Section 31 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

Please can you publish the written minutes of the 3 most recent Strategic Promotion and Examination Board meetings held?

Answer

PSNI have made the decision to provide the minutes requested in a redacted format for the reasons as outlined 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 exemptions, 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.

Section 31(1)(a)(b) – Law Enforcement – the prevention or detection of crime and the apprehension or prosecution of offenders.

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

Section 40 – Personal Information

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'). There is information within the minutes which can identify individuals including members of staff. This information is 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

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. Those staff members, including those more junior members of staff 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.

Section 31

Section 31 is a prejudiced based exemption and this means it is the Public Authority's responsibility to evidence the harm. It is also a qualified exemption and therefore a Public Interest Test must be carried out.

Harm

The Police Service is under severe threat from terrorists and any information identifying the changes in number of officers/staff in specific departments could be used to the advantage of terrorists or criminal organisations, compromising the law enforcement role of police.

The disclosure of this information may allow criminals to plan how best to engage or occupy existing police resources within a specific area in an effort to maximise their chances of committing serious crime. As a Service we have considerable experience of organised criminal groups creating diversionary calls to divert police resources (e.g. hoax call or deliberately activating intruder alarms) or deliberately creating disturbances or minor crime (e.g. road traffic offences) with the same aim. While it could be argued that such criminal activity takes place without the number of officers at specific locations being known, it is reasonable to assume that confirmation of the number of officers would assist such activity by allowing more accurate judgements and plans to be made by criminals.

Disclosure of such information could compromise the law enforcement role of police and endanger the lives of individuals

Public Interest Test

Factors Favouring Release – Section 31

Disclosure of the information would inform public debate on the issue of policing and contribute to the accuracy of that debate while illustrating to the public how funds are being spent.

Factors Favouring Retention – Section 31

The current and future law enforcement role of the Service may be compromised by the release of the requested information. A clear link exists between knowledge available to criminals and the way they operate, with the resultant impact to the Service. For example, criminals have previously carried

out crime at times when they believe officers to be on meal breaks or when there are likely to be fewer police (e.g. early hours of morning).

Decision

PSNI is tasked with the prevention and detection of crime and protecting the public. At this time of increased threat of terrorism, releasing the number/changes of police officers attached to specific departments would not be in the public interest. 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 release to the world in general, not just to the individual requesting the information.

It is acknowledged that wherever possible policing procedures must be transparent and accountable. However, police need to make balanced judgements which justify why some information needs to remain exempt and unpublished.

PSNI have determined that the release of all the information requested would therefore not be in the public interest.

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.

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.