



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-01544

Keyword: Complaints/Discipline

Subject: Equality Act 2010 - Regulation 13 Notices

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 some information to which your request relates and this is being provided to you. We do not however hold information in relation to Request 1 C below. We further consider that the information you seek in Request 1 B is exempt by virtue of Section 40 of Freedom of Information Act 2000 (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

This FOI relates to data involving protected characteristics as defined by the Equality Act 2010. A link to those nine defined characteristics is below:

<https://www.gov.uk/government/organisations/home-office/about/equality-and-diversity#equality-objectives>

The nine protected characteristics as defined by the act are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

In each of the years 2017,2018,2019,2020, and 2021:

Request 1 A

How many Regulation 13 notices were issued within the force?

Answer

In response to Request 1 A, please see the table below.

Please note that in Northern Ireland we are governed by the Police Service of Northern Ireland Regulations 2005. For information, the data provided below includes Regulation 13 processes in relation to conduct, performance and attendance.

Year	Total of Regulation 13 Notices
2017	1
2018	0
2019	1
2020	0
2021	3
2022 (as at 15 th July)	3

Request 1 B

Of those, how many of the recipients had protected characteristics (as defined by the Equality Act 2010)?

Answer

PSNI can advise that this data will not be disclosed as it is considered low level and may lead to individuals being identified.

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, 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)(i) – Personal Information

Information constitutes personal data and disclosure would contravene any of the Data Protection principles.

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 (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 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 of all individuals, including staff, and to disclose the 'Protected Characteristic' broken down as per your Request would be unfair to those individuals. 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.

Request 1 C

Of all regulation 13 notices issued – how many cases were referred to the IOPC?

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 not hold information in relation to Request 1 C. Enquiries made in relation to your Request failed to locate any records or documents relevant to your request based on the information you have provided.

PSNI can advise that we are not subject to Independent Office for Police Conduct (IOPC) investigations, but rather complaints against PSNI are investigated by the Police Ombudsman.

Accordingly, we have determined that the Police Service of Northern Ireland does not hold the information to which you seek access.

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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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.