

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2020-01538

**Keyword:** Complaints/Discipline

**Subject:** Police Firearms

### 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 some information to which your request relates and this is being provided to you.

We further consider the information you seek in Requests 2 I and 4F are exempt by virtue of Section 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

For each of the last 5 years, please breakdown by year the number of negligent discharges of police issue fire arms in the PSNI - by negligent I mean any incident where a police-issue firearm was fired when it should not have been, or was not intended to be fired.

### Answer

In 2015 = 6, 2016 = 6, 2017 = 2, 2018 = 4, 2019 = 5 and up to 26<sup>th</sup> October 2020 = 1.

### Request 2

For each of the negligent discharges detailed in 1, please outline the circumstances of this discharge as follows:

- a) Date of discharge.
- b) Where the incident happened - detailing the police station involved.
- c) Reason for the negligent discharge.
- d) What damage was caused as a result of the negligent discharge?
- e) The cost to repair any damage if applicable.
- f) The type of fire arm involved.
- g) Any injuries caused to and to who was injured - and whether the person was hospitalised as a

result.

- h) The outcome of the negligent discharge to the officer e.g. explain if there was no action taken or detail the action taken by management.
- i) Rank of the officer who the firearm in question was issued to.
- j) Any other relevant details about the incident.

### **Answer**

Please see the separate spreadsheet and within the tab labelled as 'Request 2' which provides the responses to the following 'Requests 2 A, B, C, D, F, G, H and J'.

The response to 'Request 2 B' has been provided in part within the spreadsheet however the specific 'PSNI Stations' have been provided in a separate table which is uncorrelated from the responses. This is done so as it is considered to be identifiable data.

In response to 'Request 2 E' enquiries made in relation to the cost of the repair, have failed to locate any records or documents. The form that details repairs only contains information on the work carried out and not the specific cause of any damage. Therefore the cost of the repair for these incidents is unknown. Accordingly, we have determined that the Police Service of Northern Ireland does not hold the information to which you seek access.

However to provide a response to 'Request 2 I', which requests the officers rank is exempt as to provide this information would potentially identify an officer. Therefore PSNI have made the decision to fully exempt this particular information for the reasons as articulated 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 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](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 is an absolute, class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure and a public interest test is not required.

### **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, PSNI must however consider if information can be released into the public domain. Section 40 is an interface exemption which means we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA'). Within the material requested are details of individuals (including officers and staff and persons outside the organisation that PSNI has consulted with who can be identified from this material). This information is the

'personal data' of those individuals as defined under Data Protection legislation.

PSNI must consider whether disclosure therefore 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 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 into the public domain. The information relates to an individual police officer and PSNI considers that they could be identified from any information provided. The information within the request constitutes the 'personal data' of that individual. 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 PSNI has made the decision to withhold that information.

### **Request 3**

For each of the last 5 years, please breakdown by year where there has been failure by a member of your force to maintain proper possession of a firearm - this means any incident where a police-issue firearm has been left unattended by an officer or otherwise not been in the full possession of an officer when it should have been.

### **Answer**

In 2016 = 1, 2017 = 1, 2018 = 2. In the remainder years: 2015, 2019 and 2020 (up to 26th October) there were no incidents recorded.

### **Request 4**

For each of the incidents outlined in 3, please outline the circumstances as follows:

- a) Date of incident.
- b) Where the incident happened - detailing the police station involved.
- c) Situation of incident e.g. was it lost, unsecured etc.
- d) Type of firearm involved.
- e) The outcome of the negligent discharge to the officer e.g. explain if there was no action taken or detail the action taken by management.
- f) Rank of the officer who the firearm in question was issued to.
- g) Any other relevant detail about the incident.

### **Answer**

Please see the separate spreadsheet tab 'Request 4'. This provides the responses to the following request numbers 4 A, C, D, E and G.

The response to 'Request 4 B' has been provided within the spreadsheet however it is done so as a separate table and is uncorrelated from the responses as due to the low numbers this is considered to be low level identifiable data.

However to provide a response to 'Request 4 F', requesting the officers rank is considered to be low

level and if provided would potentially identify an officer. Therefore PSNI have made the decision to exempt this particular information under Section 40 of the FOIA and the reasons are articulated in the response to Request 2.

Whilst the PSNI takes the discharge of police firearms very seriously, the number of incidents should be placed in context with the strength of the PSNI, which is 6930 Regular Officers and 240 POPTs (Police Officer Part-Time) and the fact that the Service is routinely armed.

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.