



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-01772

Keyword: Complaints/Discipline

Subject: Drug use

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 does hold some information to which your request relates and this is being provided to you. We further consider the information you seek in request number 3 & 4 is exempt by virtue of section 30 & 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

How many police officers and police staff in total have been subject to disciplinary proceedings relating to personal drug use in each of the last three full calendar years, broken down by year, along with 2020 to date?

Answer

Year	Police Officers/Police staff
2017	5
2018	15
2019	7
2020	5

Please Note: These figures include cases of suspected drugs use, where an officer has been tested for drugs and the result of the test has been negative, and no further investigation has been necessary.

Request 2

How many police officers and police staff in total have tested positive for illegal drugs after tests in each of the last three full calendar years, broken down by year, along with 2020 to date?

Answer

Year	Police Officers /Police staff
2017	1

2018	1
2019	2
2020	3

Request 3

How many police officers and police staff in total have been dismissed in relation to personal drug use in each of the last three full calendar years, broken down by year, along with 2020 to date?

Answer

This information is considered to be low level identifiable information due to the low level of staff numbers, therefore will also be made exempt under Section 30 & 40 of the FOI Act. Please refer to the exemptions paragraph below within request 4.

Request 4

How many police officers and police staff in total have been subject to disciplinary action or management advice in relation to personal drug use in each of the last three full calendar years, broken down by year, along with 2020 to date?

Answer

No Police Officers have been subject to any disciplinary outcome for personal drug use during this period.

Police Staff

2018 – 1 resignation, 2019 – 2 resignations.

For 2020 this information is considered to be low level identifiable information due to the low level of staff numbers, therefore will also be made exempt under Sections 30 & 40 of the FOI Act.

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 30 (1)(a) – Investigations and Proceedings Conducted by Public Authorities.

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

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)

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'). To ensure that officers within Coleraine Neighbourhood Policing Team due to a small number of officers cannot be identified, it has been decided to fully exempt responses to your request numbers 2 and 3 as this information is the

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

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.

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. I consider those individuals would not have any reasonable expectation that PSNI would disclose such information of this nature about them into the public domain. I further 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 partially exempt for request 1 and fully exempt for request 3 (as requested to be broken down in request 4) 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.

Section 30 is a class based exemption which means that if the information is of the type referred to within the exemption then the exemption applies to it without any consideration of the harm. It is also a qualified exemption which means that a public interest test must be carried out and the factors in relation to this are illustrated below.

Public Interest Test

Factors Favouring Release - Section 30

Disclosing this information would assist in showing that the PSNI are conducting thorough investigations into such incidents. There is much public interest in ensuring that this and any other investigation is undertaken professionally and rigorously and disclosure of the requested information could promote public trust in providing transparency, demonstrating openness and accountability into how investigations take place. Releasing the information may better inform the public and encourage others to come forward to report criminal offences 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 Retention – Section 30

The information requested is held for the purposes of investigations and therefore if the PSNI were to release the requested information at this time it could seriously compromise and undermine investigations. Any disclosure could infringe on a suspect's right to a fair investigation.

Decision

On balance the requirement to withhold this information that specifically relates to police officers/ Police staff which relates to their personal information, and is considered to be identifiable low level data must take precedence. Whilst there is a public interest in the transparency of the role of the Police Service that is appropriately and effectively dealing with performance officers would not have the expectation that this information gathered in "confidence" for that purpose only would be available in the public domain.

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.

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.psnj.police.uk

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