



FREEDOM OF INFORMATION REQUEST



Request Number: FOI-2022-01963

Keyword: Organisational Information Police/Staff Recruitment and Promotion

Subject: Officer Promotions on Hold due to Misconduct Investigations

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 request number 1c – 1e is 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

Please treat this as a freedom of information request:

As of this date, 11 August 2022, please provide numbers of serving officers who have successfully passed all stages of a promotion process but who are prevented from being offered a post on promotion due to being the subject of a misconduct investigation.

Please indicate numbers on following terms:

- a. Constables awaiting promotion to sergeant.
- b. Sergeants awaiting promotion to inspector.
- c. Inspectors awaiting promotion to Chief Inspector.
- d. Chief Inspectors to superintendent.
- e. Superintendents to Chief superintendent.

Clarification Sought:

Please confirm is our understanding of your request correct:

As of this date, 11 August 2022, please provide numbers of serving officers who have successfully passed all the stages of a promotion process and are on currently existing merit promotion list, however are not in an appointable position due to being the subject of a misconduct investigation.

Clarification Received:

Yes - please confirm the numbers and ranks of officers who would be eligible for a substantive promotion but for the fact they are under some form of misconduct investigation.

Answer

Please see below number of serving officers on currently existing merit promotion list per rank, who are currently not in an appointable position due to being the subject of a misconduct investigation.

1a. There are currently 6 officers on a Sergeant's promotion list, subject to outstanding misconduct matters

1b. There are currently 3 officers on a Inspector's promotion list, subject to outstanding misconduct matters

1c – 1e There is currently 1 officer on a Senior Rank promotion list, subject to outstanding misconduct matters. In relation to this part of your request PSNI can advise that this data will not be disclosed broken down to the level requested as it is considered low level and may lead to individuals being identified (please see exemption below).

Please note; All Professional Standards investigations into police officers are carried out without prejudice, and there is no presumption on the guilt of an officer prior to the conclusion of all proceedings.

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.

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.psni.police.uk

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