



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2022-02268

**Keyword:** Organisational Information Police/Staff Recruitment and Promotion

**Subject:** Sergeant Promotion Process

### 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. In relation to request numbers 1 and 3 the decision has been taken to provide you with 'Neither Confirm nor Deny' (NCND) reply, the reasons for this are set out in more detail below. We do not however hold information in relation to request numbers 5, 6, 8, 9, 10 or 11 below. 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

Can you confirm if <Name with Held> has been substantively promoted to the rank of Sergeant?

### Answer

The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17(1) of FOIA requires that we provide the applicant with a notice which

- a) states that fact,
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemption:

**Section 40(5B)(a)(i)** - Personal Information - the duty to confirm or deny does not arise if to do so 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).

### 'Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when\\_to\\_refuse\\_to\\_confirm\\_or\\_deny\\_section\\_1\\_foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

Section 40 (5B) (a) (i) is an absolute exemption; therefore it is not necessary to carry out a public interest test.

### **40(5) (B) (a) (i) - Personal Information**

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies -

- (a) Giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) (i) would (apart from this Act) contravene any of the data protection principles.
- (i) would (apart from this Act) contravene any of the data protection principles

Information disclosed under the FOIA is disclosed into the public domain, effectively to the world and not just to one individual. To confirm or deny whether personal information exists in response to your request could publicly reveal information about individuals, thereby breaching the right to protection of their personal information afforded to them under the Data Protection Act 2018. When confirming or denying that information is held would breach an individual's rights under the Data Protection Act legislation, Section 40 (5) becomes an absolute exemption, and there is no requirement to provide evidence of a prejudice occurring, or to conduct a public interest test. To confirm or deny that the PSNI hold or do not hold information would in fact confirm information about an individual including the fact it may or may not be held. This would amount to a release into the public domain of personal information about an individual. The individual would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Individuals may try to use the FOI legislation to circumvent the law and may try to obtain information which they are not entitled to or to try and find out whether the police hold any information about them ensure this does not occur, police services use a 'neither confirm nor deny approach' and this has to be consistently to ensure that we can protect this method of response and do not and undermine the ratio adopting the NCND response in the first place.

**The release of information under Freedom of Information (FOI) 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.**

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).

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

**Request 2**

In the current Sergeants process have any individuals received a posting offer that has been rejected and then received subsequent offers?

**Answer**

Low number of officers had their 1<sup>st</sup> offer amended.

**Request 3**

Is <Name with Held> one of these individuals?

**Answer**

Please refer to the answer for request 1.

**Request 4**

Have any individuals in the current sergeants process been made an offer and successfully appealed the offer?

**Answer**

No, none of the appeals submitted in the current process were successful.

**Request 5**

I would like a copy of any successful grievances or appeals made in respect of offers made during the current Sergeant process.

**Answer**

As none of the appeals nor grievances made in respect of offers in the current Sergeant promotion process, were upheld it has been established no information is held in relation to this request.

**Request 6**

What were the grounds for the successful appeals(s)?

**Answer**

Please refer to the answer to request 5.

**Request 7**

Has anyone received a 2nd, 3rd or 4th offer after rejecting their first Sergeants offer?

**Answer**

None of the officers from merit list have received a 2nd, 3rd or 4th offer after rejecting initial one.

**Request 8**

What are the names of these individuals?

**Request 9**

On what basis were subsequent offers made? ie what was the rationale for departing from the stated HR mandated promotion process?

**Request 10**

Who made this decision?

**Request 11**

I request any relevant documentation in respect of the decision making process including emails, notes, records of conversations that pertain to the decision making process.

**Answer 8-11**

None of the officers from current Sergeant merit list received 2nd, 3rd or 4th offers, after rejecting initial one so no information is held in relation to these requests.

**Request 12**

Is the current PSNI promotion policy still valid?

**Clarification Sought:**

In regards to Request 12, what document do you understand as 'current PSNI promotion policy'.

**Clarification Received:**

Can the question read 'what is the current PSNI promotion policy'.

**Answer**

Current PSNI promotion policy is 'Human Resources Promotion SOP' issue date 1/11/21 and 'Promotion Process Additional Information'.

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 remain dissatisfied with the handling of your request, you have the right to apply in writing to the Information Commissioner at 'Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. There are a number of other platforms you can use to contact the ICO and these can be found on the ICO's website at the following link: [Make a complaint | ICO \(https://ico.org.uk/make-a-complaint/\)](https://ico.org.uk/make-a-complaint/)."

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](http://www.psnipolice.uk)

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