



FREEDOM OF INFORMATION REQUEST



Request Number: F-2023-00443

Keyword: Organisational Information Police/Staff Misconduct and Complaints

Subject: Officer Misconduct

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 information to which your request relates and this is being provided to you. We further consider the information you seek in request number 2, 5, 6, and 8 is exempt by virtue of section 31 and 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

In 2022, how many serving police officers were disciplined for having romantic relationships with fellow officers?

Answer

No officers were disciplined in 2022 for having romantic relationships with fellow officers.

Request 2

In 2022, how many serving police officers were disciplined for having sexual relations with third parties, i.e. complainants or victims?

Answer

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/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 31– Law Enforcement – the prevention or detection of crime and the apprehension or prosecution of offenders.

Section 40– 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 31 is a prejudiced based, qualified exemption which means the PSNI must demonstrate harm in disclosure and consider the balance of the public interest in releasing information.

Section 31(1)(g) by virtue of section 31(2)(b) Law Enforcement – Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice – the exercise by any public authority of its function for any of the purposes specified in subsection (2). The purposes referred to in subsection (1)(g) are – the purpose of ascertaining whether any person is responsible for any conduct which is improper.

Section 31 is a qualified prejudice based exemption and evidence of harm and a public interest test must be conducted.

Harm

Section 31 provides an exemption from disclosing information if such a disclosure would prejudice the prevention and detection of crime or the apprehension or prosecution of offenders.

Whilst there is a public interest in the transparency of investigations carried out by PSNI, to ensure they are being conducted appropriately, the Police Service also have a duty of care to all individuals involved in investigations to ensure effective law enforcement, and PSNI must ensure that information is not disclosed that could compromise an investigation.

A disclosure 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.

Public Interest Test

Factors Favouring Release - Section 31

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve and there is a public interest in the transparency and effectiveness of the tactics used to achieve this. Release of the information may reassure the public that PSNI are effective in this area.

Factors Favouring Retention - Section 31

Disclosure of this information could compromise the PSNI's tactics and law enforcement abilities that are used to prevent and detect crime and apprehend offenders which could potentially lead to more crime being committed and individuals being placed at risk. There is a strong public interest in the PSNI being able to protect investigations and details of this nature may be used by those involved in criminal activities in combination with other information they have gathered to try and evade detection.

Decision

On balance the requirement to withhold this information relating to any investigations must take precedence over the important issues of public accountability and transparency, as releasing this information may affect the outcome of any court proceeding which must take precedence. Although there is a public interest in the transparency of investigations, PSNI has a greater duty of care to all individuals involved in any investigation and the investigative role is of paramount importance and the Police Service will not divulge information if to do so would adversely affect any ongoing investigations.

The requirement to withhold this information, the release of which may compromise ongoing investigations must take precedence over the importance of public accountability and transparency. Any diminution of public assistance would hamper these investigations and detection of crimes and in time lead to a reduction in public confidence in the criminal process. The PSNI consider that releasing this information into the public domain would not be in the public interest.

On this basis it has been decided that the balance of the public interest favours withholding some of the information you have requested at this time.

Section 40(2)(a)(b) by virtue of section 40(3)(A)(a) Personal information – Information constitutes personal data and disclosure would contravene any of the Data Protection principles.

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'). Names of third party individuals constitute their '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. 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 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. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. Rational behind this decision is the low level data principle, and specific to particular offences within a 1 year period. This will increase risk of identification of officers, especially for offences which would attract more attention, such as inappropriate relationships with 3rd parties. 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

In 2022, how many serving officers of sergeant and above were disciplined for having inappropriate relations at work?

Answer

No officers of Sergeant rank or above were disciplined in 2022 for having an inappropriate relationship at work.

Request 4

In 2022, how many serving officers were disciplined over allegations of sexual assault?

Answer

No officers were discipline in 2022 for allegations of sexual assault.

Request 5

In 2022, how many serving officers were arrested on charges related to rape or sexual assault or harassment?

Answer

This information been exempt under section 31 as per explanation in the answer to request 2.

Request 6

In 2022, how many serving officers were charged with crimes related to sexual harassment, assault or rape?

Answer

This information is exempt as per answer in request 2.

Request 7

In 2022, how many serving police officers were disciplined in relation to coercive control or domestic violence?

Answer

Two officers were discipline in 2022 in relation to coercive control or domestic violence.

Request 8

In 2022, how many serving police officers were charged with coercive control or domestic violence?

Answer

This information been exempt under section 40 as per explanation in the answer to request 2.

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.

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 Corporate Information Manager, Corporate Information Branch, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.police.uk.

If, following an Internal Review carried out by an independent decision maker, you remain unhappy about how your request has been handled you have the right to apply in writing to the Information Commissioner, under Section 50 of the Freedom of Information Act, 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.psni.police.uk

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

confidentiality.