



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2010-00279

Keyword: Complaints/Discipline

Subject: Breaches of the Data Protection Act

Request and Answer:

I am writing to confirm that the Police Service of Northern Ireland (PSNI) has now completed its search for the information.

Question 1

How many civilian workers in the PSNI have been convicted for breaches of the data protection act from 2007 to present?

Answer

A search of investigations carried out by PSNI Professional Standard Department and each of our Human Resource Managers in all PSNI's Districts and Departments revealed that there are no civilian staff members who as a result of internal investigation have been convicted for breaches of the data protection act from 2007 to present.

Question 2

How many civilian workers in the PSNI are currently under investigation for breaches of the data protection act?

Answer

Section 17 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 Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny (NCND) 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 30 (3) Investigations and Proceedings conducted by Public Authorities

Section 30 is a class based qualified exemption and consideration must be given as to whether there is a public interest in confirming or denying the information exists is the appropriate response.

Public Interest Test Section 30

For Release

The public are entitled to know how public funds are being spent and that if cases of this nature were to exist, that they are being investigated satisfactorily. Confirmation or denial would assist communities to be more aware of the level of protection afforded to them.

For Retention

By confirming or denying the existence of details of ongoing Data Protection investigations the PSNI's future investigative capabilities would be affected which would hinder the prevention or detection of crime. This would impact on police resources and more crime would be committed, placing individuals at risk.

Decision

This question asks about current ongoing investigations. It is standard practice to apply NCND in these cases in order to prevent someone currently unaware of an ongoing investigation taking steps to prevent detection. Confirming or denying the existence of the information could alert a member of police support staff who is involved in breach of Data Protection Act activities to the fact that we have no information on him/her. This could encourage this member of staff to continue with his/her activities, leading to continued criminal activity and therefore may make detection/prevention of crime more difficult.

Whilst there is an interest in the transparency of discipline issues within the PSNI, there is a very strong public interest in safeguarding the integrity of police investigations. Therefore it is our opinion that for these issues the balancing test for confirming or denying whether the information is held is not made out.

In accordance with the Act, this letter represents a Refusal Notice for this part of your request. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Question 3

How many civilian workers in the PSNI have been disciplined internally but not prosecuted for breaches of the data protection act from 2007 to present?

Answer

Professional Standards Department have carried out investigations into 5 civilian workers from 2007 to present which resulted in no prosecution but appropriate disciplinary action by local Human Resource Management.

Question 4

Please advise who investigates alleged civilian breaches of the dpa within PSNI. Is it referred to the ICO?

Answer

The allegation will be investigated either by the Professional Standards Department or by the individual's local Human Resources Manager who will assess the circumstances of the case and

identify a proportionate response to the allegation. The assessment will include consideration of all relevant factors. Where necessary (for example, confirmation that an offence has occurred), the PSD or the local HR Manager will seek the views of the data protection officer. The information Commissioner may also be in position to provide advice. In all cases the data protection officer should be regularly appraised of the progress of any investigation and prosecution into offences under the Act.

Where a prosecution is anticipated the Head of Investigations at the Information Commissioner's Office will be informed and will provide guidance and assistance as necessary, though the police service will retain primacy.

A decision by the Crown Prosecution Service not to proceed with a prosecution under the Act should not preclude notification of the case to the Information Commissioner. The information Commissioner is particularly keen on pursuing those who procure the disclosure or sale of Police-held personal data.

The data protection officer will be informed of the outcome of the case in order that any necessary remedial action can be identified and undertaken by the service.

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 Freedom of Information Team, 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 Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing xxx@xxx.xxx.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

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