



FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 03/2015

Date: 11 February 2015

Request:

1. Copy of new guidance provided to the Policing Board by DOJ on 19 December 14, in respect of reassessments and copy of any and all correspondence issued by DOJ to NIPB with the new guidance.
2. Specific details of all meetings held between NIPB and DOJ from 18 September 14 to date re the SCOFFIELD REVIEW/REPORT, together with copy minutes of all such meetings.
3. Copy of Chapters 2 to 13 of the Scofield review/report.

Answer 1

The Department of Justice (DOJ) guidance on reassessment of injury pensions is available on the DOJ's website at:

[http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/doj-guidance-on-reassessment-of-iod-awards-december-2014 .pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/policing/doj-guidance-on-reassessment-of-iod-awards-december-2014.pdf)

As this document is in the public domain exemption 21 of the Freedom of Information Act 2000, information already reasonably accessible, applies.

With respect to copies of all correspondence issued by the DOJ to the Northern Ireland Policing Board (NIPB) with the new guidance, please see enclosed copy of a letter dated 14 January 2015.

Answer 2

The NIPB and DOJ met on 9 October and 17 November 2014 to discuss the Scofield review. A copy of the minutes of the meeting on 17 November 2014 is attached. Redactions have been made for content unrelated to your request. No minutes were taken of the meeting on 9 October 2014.

Answer 3

The Board agreed on 4 December 2014 to publish Chapters 1 (Introduction, Terms of Reference and Executive Summary) and 14 (Conclusion and Recommendations) on the Board's website.

With respect to the remaining chapters of Mr Scofield QC's report these will not be published. As they are exempt under Section 42 given they are subject to advice privilege.

Advice privilege applies where no litigation is in progress or contemplated. It covers confidential communications between the Board and David

Scofield, QC as the Board's legal adviser, made for the dominant purpose of seeking or giving legal advice.

The section 42 exemption is a qualified exemption and is subject to a Public Interest Test. I must inform you that in the circumstances of this request the Policing Board has determined that the public interest in maintaining the exemption outweighs the public interest in disclosure.

A copy of our public interest test document is attached for your information

If you have queries about this request or the decision, please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

The Information Commissioner's Office – Northern Ireland
3rd Floor
12 Cromac Place
Gasworks
Ormeau Road
Belfast
BT7 2JB.

Telephone: - 0303 1231114

Email: - ni@ico.org.uk

Please be advised that all Policing Board replies under Freedom of Information will be released into the public domain via our website @ www.nipolicingboard.org.uk.

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

FOI 03/2015 – Section 42 Exemption “Advice Privilege”

Public Interest Test

The above exemption is a qualified exemption, and a Public Interest Test must be carried out to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Information requested by the applicant

- A copy of the Scoffield Report

Arguments in favour of disclosure of the requested information

1. Disclosure of the requested information would be in line with a public authority being open and transparent in how it transacts its business, and would help in promoting accountability.
2. Disclosure would also be within the overall spirit of the Freedom of Information legislation in asking public bodies to be open and transparent.
3. Work undertaken by the Board in respect of the Injury on Duty Award process has prompted media interest in the past and, therefore, it could be argued that there is a public interest in releasing the requested information.
4. The issues surrounding the operation of the Injury on Duty Award process are current and generating debate amongst interested parties. The increased level of communication received by the Board from individuals, political representatives and stakeholder organisations highlights that the topic is of interest to sections of the community.

Arguments in favour of engaging the exemption and withholding the requested information

1. Maintaining legal privilege would safeguard openness in all communications between the Board and Mr David Scoffield QC, to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.
2. The legal advice is ‘live’ and is still being actively considered by the Board.
3. Release of the requested information at this time would adversely impact upon the current operation of the Board’s Police Administration Branch. To date the increased volume of correspondence received by the Board from individuals, political representatives and various stakeholder organisations has significantly increased the work pressures on the Branch. It is believed that full release of this information would generate an unsustainable increase in the volume of requests for information.
4. Release of the information at this time could hinder and restrict the ability of officials to have the necessary ‘free thinking space’ to fully consider the issues surrounding the administration of the Injury on Duty Award process and on-going discussions with the Department of Justice and PSNI.

5. Release of all information into the wider public arena at this time *could* lead to interested parties amongst the general public and amongst elected representatives to 'lobby' the Board on individual cases, which could also hinder the discussions currently on-going and lead to misrepresentation of advice that was given..
6. The release of this information is of interest to the applicant, and may be of interest to other individuals who have a direct involvement with the Injury on Duty process. However this is not the same as being of interest to the public at large which is what releasing this information under the FOIA is intended to be.
7. The Board has published Chapters 1 and 14 of the report which contain the main issues examined and Mr Scofield QC's conclusions and recommendations, thereby recognising the public's interests in the Injury on Duty Awards process.

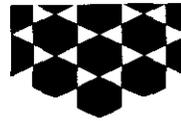
Result

Taking into account all of the deliberations above, it is felt that the public interest in engaging the exemption to withhold the information outweighs the arguments towards disclosure.

As a result, the requested information should not be provided.

Anthony Harbinson
Director
Safer Communities

Ref No:	
Received:	14/1/15
Scanned:	✓
Allocated To:	P Colledge
Action:	



JUSTICE

www.dojni.gov.uk

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Date: 14 January 2015

Dear Anne

**INJURY ON DUTY: GUIDANCE ON REASSESSMENT OF INJURY PENSIONS
DECEMBER 2014**

As agreed at our meeting of 17 November 2014, and in my follow-up letter of 28 November 2014, I am writing to provide the Department's guidance to the Board on the Reassessment of Injury Pensions (December 2014).

This Guidance sets out the Department's policy position and is provided to support the Board in fulfilling its statutory responsibilities in relation to the reassessment of injury on duty (IOD) awards, in accordance with the 2006 Regulations. I should caution that it does not replace or supersede the Regulations, which continue to provide the legal basis for the IOD scheme.

I am conscious that the Board requested guidance on the specific issue of reviews of IOD awards at age 65. The Department has, however, taken the approach of providing more encompassing guidance on reassessments. In doing so, we have taken account of the requirements of the Regulations (specifically Regulation 35), the Scofield Review, and Mr Justice's Supperstone's ruling in the *Simpson* case, in particular his view that there should be no difference in approach on the basis of the age.

The Department concurs with the principle set out in Scofield and the *Simpson* case that each reassessment should focus on the individual officer's degree of disablement; we therefore want to ensure that, in providing guidance to the Board with regards to the policy position on reassessments, we also provide flexibility for the Board to exercise discretion in its decision-making responsibilities. We also recognise the Board's position as an arm's length body with responsibility for setting its own operational policies and procedures, however, the Guidance may highlight issues for the Board to consider in its management of the IOD scheme. The Board will, therefore, want to take time to review the Guidance and to introduce any changes to your policies and procedures you consider necessary; Departmental officials would be happy to support the Board in this process if it would be helpful.

The Department continues to progress work on our other commitments to review the policy intent and develop revised Regulations. It remains our intention that a draft of the regulations will be shared with the Board in advance of formal consultation in April 2015. Officials will review the Guidance to ensure that, in due course, it supports the introduction of new Regulations and will of course welcome feedback from the Board to inform the development of any future guidance.

I trust you find this useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anthony Harbinson', written in a cursive style.

ANTHONY HARBINSON

cc Sam Pollock, Chief Executive
Ross Hussey, Chair of Audit and Risk Committee

MEETING WITH DOJ IN RESPECT OF [REDACTED] AND SCOFFIELD
REVIEW – 17 NOVEMBER 2014

Present:	DOJ Rosemary Crawford Anthony Harbinson Lorraine Montgomery 2 DOJ Officials NIPB Anne Connolly Stuart MacDonnell Sam Pollock Peter Gilleece 1 Board Official
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SCOFFIELD REVIEW

The meeting was informed that as agreement could not be reached on the terms of reference for the tripartite working group, the proposal to establish a tripartite working group was withdrawn. It was further noted that the Scoffield review has identified 5 limitations on the legislation and policy framework which are for the Department to address and 1 limitation for the Board in respect of its duty of care to staff.

The Board advised it is considering sharing the full report with the Department and discussions on the full report were due to take place at the Audit & Risk Management Committee meeting on 21 November 2014 with David Scoffield QC.

The Department outlined it is committed to resolving the issues highlighted in the Scoffield report and advised the following work is to be undertaken:

1. A review of the policy intent behind the IOD Award Scheme;
2. A review of the issues of over 65s reviews, with guidance to be provided by 19 December 2014 and operational by 1 April 2015;
3. Examination of the issue of double recovery claims and in particular hearing loss claims; and
4. Draft Regulations to be issued for a 12 week consultation by the end of April 2015 and shared with the Board in advance.

The Department stated this work intended to address the 5 significant limitations identified by Scoffield for the Department and would be informed further by the full report when made available.

There were some immediate challenges discussed that need to be addressed, particularly the approach to over 65s reviews pending the Department's response. The issue of stress induced absence in the Board was raised and reference made to Scofield's sixth limitation. The meeting was advised the Board are working to address the pressures faced by staff in the administration of the IOD Award Scheme and it is believed this will be significantly addressed by the Department's response to the five limitations.

It was also highlighted that the matter of double recovery was a serious public concern and while officers were perfectly entitled to make such claims, it was not sustainable as David Scofield had identified. The Board committed to checking its records to ascertain how many claimants for an IOD Award had already received a settlement payment from the Chief Constable.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ACTIONS

4 key areas of work on IOD Award Scheme	DOJ
Information on Hearing Loss claims	NIPB
5 th limitation in relation to Police Admin staff/backlog	NIPB
Consideration of release of full report to the DOJ	NIPB
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 03/2015 – Internal Review Determination

The applicant sought an internal review of the Board's response following its initial considerations of this request for information. The applicant had appealed the Board's decision to withhold the information requested at question 3 ie a Copy of Chapters 2 to 13 of the Scofield review/report

An FOI internal review panel consisting of the Board's Interim Chief Executive and the Director of Partnership met on the 15 April 2015 to consider the matter.

The review panel agreed that the factors in favour of maintaining the Section 42 exemption of Legal Professional Privilege were **not met** and Chapters 2-13 of the Scofield Report should be released. The panel also agreed that prior to release the Report should be reviewed for redaction of any personal case information.

During the redaction exercise to remove personal data from the Report additional information was identified that was deemed to be exempt from disclosure. This information related to draft injury benefit regulations. This Decision Maker deemed that this information was exempt under Section 22 (Intended for future publication). The matter was brought back to the review panel members on Friday 24 April 2015. The panel members determined that Section 22 applied to this information and that the public interest in maintaining the exemption outweighs the arguments towards disclosure.

Redactions have been made to the Report in order to:

- i. ensure third party data is not disclosed in line with data protection principles. Section 40 (2) (Third party personal information) of the Freedom of Information Act 2000 (FOIA) applies, and
- ii. remove references, primarily contained within Chapter 13, in relation to draft proposals for revised injury benefit regulations. Section 22 (Information intended for future publication) of the FOIA applies. This is a qualified exemption and a public interest test has been completed. This found that the public interest in engaging the exemption to withhold the information outweighs the arguments towards disclosure. A copy of our public interest test document is attached.

A copy of the Report was released to the applicant on 30 April 2015. The Report has also been published on the Board's website and is available to view via the following link:

<http://bit.ly/1I0rmhb>

FOI 03/2015 – Section 22 Exemption “Information Intended for Future Publication”

Public Interest Test

The above exemption is a qualified exemption, and a Public Interest Test must be carried out to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Information requested by the applicant

- Copy of Chapters 2 to 13 of the Scofield review/report.

Arguments in favour of disclosure of the requested information

1. Disclosure of the information would be in line with a public authority being open and transparent in how it transacts its business, and would help in promoting accountability.
2. Disclosure would also be within the overall spirit of the Freedom of Information legislation in asking public bodies to be open and transparent.

Arguments in favour of engaging the exemption and withholding the requested information

1. The draft injury benefit regulations referenced in the Scofield report are an early version and may have been revised since they were provided to the Board.
2. Withholding disclosure would safeguard openness in all communications between the Board, the DOJ and other parties on the draft injury benefit regulations, to ensure a full and frank exchange of views.
3. Release of the information at this time would pre-empt a planned public consultation by the DOJ on the draft injury benefit regulations.
4. The DOJ intend to publish the final injury benefit regulations following resolution by the Northern Ireland Assembly. The Board should not place information in the public domain that may be subject to future amendment.

Result

Taking into account all of the deliberations above, it is felt that the public interest in engaging the exemption to withhold the information outweighs the arguments towards disclosure.

As a result, the requested information should not be provided.