



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 26/2013

Date: 25th July 2013

- Request:**
1. "Is the Human Resources Committee part of the Policing Board or the Department of Justice?"
 2. "The recommendation of the Human Resources Committee to the Policing Board was dated 20th February 2013. What specific subject matter and when exactly was the Human Resources Committee asked to look into/review the issue/s which resulted in the recommendation of the 20th February 2013. Also who directed and why was this direction given to the Human Resources Committee which resulted in this recommendation of the 20th February 2013".
 3. "You state 'There had been two Judicial Reviews which rendered the guidance unlawful and had major impact on current working arrangements'. What are these two Judicial Reviews referred as, are they 'Laws U' and 'Ayres'. What is the subject matter of these two Judicial Reviews and why are they so significant".
 4. "You state 'That until February 2012 there was guidance from the Home Office which was followed in Northern Ireland regarding Injury on Duty Awards'. Injury on duties were recommenced in November 2012 up until this present suspension on 7th March 2013. Which guidance was used during this period that the suspension was lifted, is it the case that during my medical of 12th February 2013 that 'Guidance' of an 'Unlawful' nature was used or can you explain which guidance and why it was implemented throughout this period when medical suspensions were lifted. Who and in what grounds was the suspension lifted to permit reviews to recommence bearing in mind the Policing Board was waiting the outcome of the Human Resources Committee recommendation. What specifically is the terms of the guidance given to SMP under which they were working for the Policing Board".

5. "With all guidance after February 2012 deemed unlawful does that mean that any medical or review from February 2012 up until 7th March 2013 were carried out unlawfully. What redress does an Officer have and is there an overseeing Ombudsman which can investigate these unlawful practices concerning pensions. Also will all Officers in this position be notified appropriately?"

6. "Is it the case that during the period between November 2012 and 7th March 2013 when the suspension was lifted that the SMP's were given no guidance in relation to the two Judicial reviews that you refer to. If this was the case what guidance/instructions were they asked to comply with during the period the suspension was lifted"

7. "What is the financial terms agreed with Blackwell Associates and the Policing Board as paid for at public expense?"

8. "Is there a bonus system in place if Blackwell Associates recommend a reduction in an officers banding?"

9. "How much does an appeal cost and what is the projected expense anticipated by the Policing Board to address the reviews/medical carried out under the 'Unlawful Guidance' system and paid for at public expense?"

10. "If Blackwell Associates are contracted by the Public Authority of the Policing Board then why is their Pay structure and Bonus system not also available under the Freedom of Information Act 2000 since they are working for a public body".

11. "You state 'When suspension of reviews has been lifted the Board will advise all interested parties'. This is a very bland response. Can you confirm

- 1) What specifically will the Board advise?
- 2) Will full details of the contents of the review which resulted in this present suspension be disclosed to myself?
- 3) Will the specific new instructions to be given to SMPs be disclosed to myself?
- 4) Will all reviews/medicals specifically carried out after February 2012 to 7th March 2013 be reviewed and quality controlled by the policing board in light of the guidance incorporating the Judicial Reviews. When this happens will

interested parties be notified of the 'Unlawful' shortcomings, be advised of their rights and will the Policing Board rectify individuals circumstances affected by the 'Unlawful Guidance'"

12. "Will all officers over 65 who have been directly affected in the past be notified of the shortcomings of the Policing Boards actions".

Answer:

1. The Human Resources Committee is part of the Northern Ireland Policing Board (the Board).

2. The Board's Chief Executive sought the support of the Human Resources Committee to recommend that the Board suspend all reviews of Injury on Duty awards to allow for a further review to take place. This work area came within the Human Resources Committee's remit and, as such, members considered this issue at their February 2013 meeting.

3. The cases referred to where;

- Simpson –v- Police Medical Appeal Board, Secretary of State for the Home Department, and Northumbria Police Authority
- Crudace –v- Northumbria Police Authority

Both cases relate to reviews carried out under the Police (Injury Benefits) Regulations 2006 and are relevant to the work of the Board.

4. As was previously stated in the Board's response to your FOI request numbered 19/2013, following the Simpson Judicial Review of February 2012, the Department of Justice (D.O.J.) guidance was suspended in March 2012. That guidance had automatically zero-rated officers' degree of disability award on reaching the age of 65. However, the Board had not adopted that approach and instead continued to conduct full reviews where the SMP considered all medical and non-medical reports/evidence and also had a review meeting with each former officer, calculating a percentage award using the Northern Ireland ASHE survey figures.

A Working Group comprised of representatives of the Northern Ireland Retired Police Officers Association, the Northern Ireland Disabled Police Officers Association, the Police Federation for Northern Ireland, the PSNI, the Department of Justice and the Board has been set up, which will consider the policy and procedure currently followed in relation to reviews of IOD awards and make recommendations to the Department for consideration. It is anticipated that the review group will make its recommendations by the end of August 2013.

5. I would refer you to answer 4. above. I can also advise that the Pensions Ombudsman can Investigate and decide complaints and disputes about the way that pension schemes are run.

6. I would again refer you to answer 4. above. As has been previously stated, the Board conducted full reviews where the SMP considered all medical and non-medical reports/evidence and also had a review meeting with each former officer, calculating a percentage award using the Northern Ireland ASHE survey figures.

7. The Board has determined that the exemption at section 43 of the Freedom of Information Act (Commercial Interests) applies to the requested information.

Section 43 is a qualified exemption and, as such, is subject to a Public Interest Test. The Board is considering the public interest arguments to determine if the public interest in maintaining the exemption outweighs the public interest in disclosure.

There is provision within the Freedom of Information Act at section 10 (3) which allows the 20 working day time limit for a response to be extended where an authority is considering a Public Interest Test for a qualified exemption.

In this case I must advise that the Board will require an additional ten working days to fully consider a Public Interest Test in relation to the information requested. A response to this element of your request is now due to be provided by 8th August 2013, although if it is possible to provide an answer in advance of this date we will do so.

8. I can advise that no such system is in place.

9. Please see 7. above.

10. Blackwell Associates is not a Public Authority, and is therefore not covered by the provisions of the Freedom of Information Act 2000.

11. I would again refer you to answer 4. above. It is anticipated that the review group will make its recommendations by the end of August 2013. Until then it is not possible to speculate in relation to outcomes etc.

12. I would refer you to the answer given at 11. above.

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: - 02890 269 380
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.

Record number 214674



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 26/2013

Date: 1 August 2013

- Request:**
7. "What is the financial terms agreed with Blackwell Associates and the Policing Board as paid for at public expense?"
 9. "How much does an appeal cost and what is the projected expense anticipated by the Policing Board to address the reviews/medical carried out under the 'Unlawful Guidance' system and paid for at public expense?"

Answer: 7. The Board has determined that the exemption at section 43 of the Freedom of Information Act (Commercial Interests) applies to the requested information.

Section 43 is a qualified exemption and, as such, is subject to a Public Interest Test. The Board has completed a Public Interest and has decided that the public interest in maintaining the exemption outweighs the public interest in disclosure.

A copy of the Public Interest Test is attached for your information.

9. Please see 7. above.

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:

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FOI 26/2013 – Section 43 exemption “Commercial Interests”

Public Interest Test

The exemption at section 43 of the Freedom of Information Act (FOIA) 2000 is a qualified exemption and, as such, a Public Interest Test must be carried out by the public authority before information could be withheld using the exemption.

Information requested by the applicant

- “What is the financial terms agreed with Blackwell Associates and the Policing Board as paid for at public expense?”
- “How much does an appeal cost and what is the projected expense anticipated by the Policing Board to address the reviews/medical carried out under the ‘Unlawful Guidance’ system and paid for at public expense?”

Arguments in favour of disclosure

1. Disclosure of the requested information could help the Board to show it is open and transparent in how it makes its decisions regarding the awarding of contracts.
2. Disclosure of the requested information could help the Board to be seen to be open, accountable and transparent in relation to how public money is spent.
3. Disclosure would be in line with the overall aim of openness and transparency enshrined within the FOI Act.

Arguments in favour of refusal

1. The SMP contract will be due for renewal within the next couple of years, and if details of the current contract were made public at this point in time this could adversely impact upon any future procurement process.
2. Publishing financial details relating to the current SMP contract could also adversely impact upon the need to ensure that public money is spent in the most cost effective way as possible – i.e. if it became public knowledge how much the current contractor is charging for individual services, then it is possible that competition for any future contract could be undermined by interested companies tendering on a similar pricing structure rather than competing on cost.

3. The views of the SMP Blackwell Associates (BA) are very strongly that the information requested is commercially sensitive to their business and should not be released at this time. BA added that during the tendering process for the contract they had specifically requested that financial and personnel information remain confidential, and that they still believe that pricing structures and product terms etc. associated with the SMP contract should remain confidential. BA also stated that Clause E4 of the Conditions of Contract affirms that no part of the contract can be publicised without their written consent, which they will not give on this occasion.

4. A requestor's private interest in receiving particular information held by a public authority is not necessarily the same as the interest of the general public, and what may serve an individual requestor's private interests may not necessarily serve the wider public interest (ref: ICO guidance note on the Public Interest Test). Whilst there is no doubt that the requestor is keen to receive this financial information, it does not necessarily follow that members of the public who have no association with the work BA carry out for the Board would be as interested.

Decision

Taking into account all of the circumstances stated above, it is felt that the public interest in engaging the exemption and not disclosing the information requested outweighs the arguments in favour of disclosure.

As such, the information should be withheld and the requestor advised accordingly.