



## FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 53/2015

Date: 17 November 2015

### Request

- 1. I note from the Pensions Ombudsman website the determination in a local case of [REDACTED] Reference [REDACTED] when again, the NIPB has been adjudicated by the Pensions Ombudsman to have practised maladministration, having failed to act in accordance with the 2006 IOD Regulations. It is clear NIPB referred documentation direct to the SMP in the appeal case and not to the IMR, as required by the 2006 IOD Regulations. As a result of this determination from the Pensions Ombudsman what action has NIPB implemented to ensure the same procedure as in the [REDACTED] case has been terminated? A copy of any written internal policy direction so ensuring should be supplied.*
- 2. What action if any has NIPB taken, or will be taking to ensure all past cases which have wrongly been referred back to the SMP rather than the IMR, (as in the [REDACTED] case) will be re-examined and actions implemented to put in place corrective measures to put right any injustices? Let me have all written directions relating to any correcting measures or actions now ongoing, or intended.*
- 3. Please confirm the number of past notified IOD appeals, where the above procedure was implemented i.e. papers referred back to the SMP rather than the IMR.*
- 4. Total amount of additional money paid to SMPs in cases wrongly referred back to the SMP for further consideration and not in accordance with the 2006 Regulations, where applicants have lodged appeals, and should have had their papers/applications sent by NIPB direct to the DOJNI for adjudication by the Independent Medical Referees and not to the Selected Medical Practitioner. To lessen the burden on NIPB staff I ask this information be supplied over a limited period to cover from 1.1.2012 to 31.12.2014 and also from 20.5.15 (date of [REDACTED] Pension Ombudsman determination) to todays date.*

**Answer:**

On 19 October 2015 in our initial response to you in relation to FOI 53/2015 the Board advised that the exemption at Section 36 (2) (c) of the Freedom of Information Act (prejudice to the effective conduct of public affairs) applied to the requested information.

Section 36 requires that, other than for statistical information, the qualified person for the public authority must give their reasonable opinion that the exemption is engaged. The qualified person for the Board is the Chief Executive. A submission using the ICO document entitled 'Record of the qualified person's opinion' was made to the Interim Chief Executive on 19 October 2015 and he provided an opinion that the exemption at Section 36 (2) (c) was engaged.

In our correspondence to you dated 19 October 2015 we also advised that Section 36 is a qualified exemption and, as such, is subject to a Public Interest Test. We further explained that we needed additional time to fully consider a Public Interest Test in relation to the information requested.

The Board has now completed its deliberations to determine if, in all the circumstances of the case, the public interest in maintaining the Section 36 exemption outweighs the public interest in disclosing the information.

In the circumstances of these requests the Board has determined that at this time the public interest in maintaining the exemption outweighs the public interest in disclosure, and therefore the requested information is not being released.

A copy of our public interest test document is enclosed 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](mailto: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  
3<sup>rd</sup> Floor  
12 Cromac Place  
Gasworks  
Ormeau Road  
Belfast  
BT7 2JB.

Telephone: -02890 269 380

Email: -[ni@ico.org.uk](mailto: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](http://www.nipolicingboard.org.uk).

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

## FOI 53/2015 – Section 36 Exemption “Effective Conduct of Public Affairs”

### 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

#### FOI 53/2015

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### **Arguments in favour of disclosure of the requested information**

1. Release of the requested information would be in keeping with the overall spirit of the FOIA, and by doing so may also help inform the requestor about the procedures and practices currently operating within the Board regarding the operation of the Injury on Duty Award scheme and the ongoing work to seek to implement the recommendations arising out of the Scofield report.
2. The issues surrounding the Board's operation of the Injury on Duty Award scheme and the Scofield report recommendations are very much live and current and are generating significant debate amongst interested parties. The increased level of communication received by the Board from individuals, political representatives and stakeholder organisations also highlights that the topic is of interest to certain sections of the general public.

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

1. It is believed that if the requested information was placed into the public domain at this time it would result in a significant number of follow up enquiries being submitted by this requestor. This would place an additional burden on Board officials who would be tasked to handle this correspondence and as a result would also have a detrimental effect on the Board's ability to progress the Scofield report and also offer an effective service around its core objectives not only in terms of managing the Police Pension and Injury on Duty functions but other key work areas within the Board.
2. It is also believed, based on the level of correspondence the Board has received on this issue to date from individuals, political representatives and various stakeholder organisations, that the release of the requested information at this point in time would be likely to generate a significant and unsustainable increase in the volume of requests for information received by the Board. It is felt that this would place a significant additional burden on the Board and impact upon its ability to carry out its statutory functions.
3. Although the Board has agreed to implement the Scofield report recommendations, this is only one element of a wider review currently being undertaken by the Board into the administration of the IOD Award scheme. Therefore, it does not naturally follow that simply because of the adoption of the Scofield report that the time is also right to release the requested information into the public domain.
4. The volume of correspondence received by the Board from individuals, political representatives and various stakeholder organisations has significantly increased the work pressures placed upon the Board's Police Administration Branch. As has been previously stated, it is also believed that release of the requested information at this time would generate an unsustainable increase in the volume of requests for information received by the Board relating to IODs and the Scofield recommendations, which would

only serve to exacerbate an already extremely difficult situation being faced by Police Administration Branch.

5. Release of the requested information at this time could impede 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 the on-going discussions around the implementation of the Scofield recommendations.
6. Release of the requested information into the wider public arena at this time could also lead to interested parties amongst the general public and amongst elected representatives 'lobbying' the Board on certain IOD related issues and even perhaps on individual cases. This could in turn impede discussions currently on-going in relation to Scofield and could lead to the misrepresentation of key issues and raise the possibility of poor decision making in a critical area of the Board's business.
7. The release of this information is clearly of interest to this particular requestor, and may also be of interest to other individuals who have a direct involvement with the Injury on Duty process. However this is not the same as it being of interest to the wider general public which is what releasing this information under the FOIA is intended to be.
8. In order to be as open and transparent as possible in relation to the ongoing review of how Injury on Duty Awards are administered, a full copy of the Scofield report has already been published on the Board's website for all interested parties to view. In addition, the Board has also updated stakeholders on this process by way of a formal presentation from the Board's previous Chief Executive and through update letters, each of which can be accessed via the web link below;

[http://www.nipolicingboard.org.uk/index/our-work/pensions-and-administration/senior\\_counsel\\_review\\_of\\_injury\\_on\\_duty\\_awards.htm](http://www.nipolicingboard.org.uk/index/our-work/pensions-and-administration/senior_counsel_review_of_injury_on_duty_awards.htm)

This demonstrates that the Board is already fully committed to engaging with stakeholders and interested parties regarding the ongoing review process and its consideration of the Scofield recommendations.

## **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 at this point in time.

As a result, the requested information should be withheld.