

18 April 2024

REFERENCE: FOI\24\22

Dear Sir,

Thank you for your request for information dated 15th February 2024 as detailed below.

Under the Freedom of Information Act, can you please provide me with copies of all communications held by the department in relation to the secondment of Mark Hamilton from the PSNI.

This should include but not be limited to emails, records of calls, notes etc - and cover all communication between any part of the DoJ and the PSNI, Police Federation or any other interested parties.

Apologies for the delay in responding to your request.

The Freedom of Information Act 2000 gives you two rights of access when you write to us asking for information. You have the right to know whether we hold recorded information in scope of your request, and you have the right to have that recorded information given to you. These rights may only be overridden if the information you are looking for is covered by an exemption in the Act.

The information you have requested is covered by the following section of the Freedom of Information Act 2000:

- section 36 (2) (b) would, or would be likely to, inhibit— (i) the free and frank provision of advice, or (ii) the free and frank exchange of views for the purposes of deliberation, or

- section 36 (2) (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Qualified Exemptions

The exemption provisions of section 36(2)(b) & (c) confer a qualified exemption to our duty under section 1(1)(b) of the Act – to release the information requested. Information covered by qualified exemptions can only be withheld where the public interest falls in favour of applying the exemptions.

We have provided details of our Public Interest Test considerations in Annex A to this letter. The DOJ has decided that, on balance, the public interest in withholding the information detailed above outweighs those considerations favouring the release of that information.

If you are unhappy with the result of your request for information you may request an internal review within two calendar months of the date of this letter. If you request an internal review please do so in writing stating the reasons to the address above.

If following an internal review you were to remain dissatisfied you may make a complaint to the Information Commissioner and ask him to investigate whether the DoJ has complied with the terms of the FOIA. You can write to the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

The Commissioner will not investigate a complaint unless an internal review procedure has been carried out.

Further details on the role of the Information Commissioner and the handling of appeals can be found at: www.informationcommissioner.gov.uk

Yours sincerely

Freedom of Information Manager

PUBLIC INTEREST TEST: Section 36(2)(b) & (c) (Prejudice to effective conduct of public affairs)

In favour of release of the information:

There is a general public interest in being able to understand the way in which Government works, how decisions are made and the extent to which various factors influenced those decisions. There has been extensive media coverage of the proposed secondment of Mark Hamilton and so disclosure would provide greater transparency and accountability, and potentially increased levels of trust in the conduct of public affairs.

In favour of non-disclosure:

There needs to be a space within which officials and the Minister are able to discuss sensitive issues related to the work of the Department in a free and frank manner. The proposed secondment of Mark Hamilton to the Department of Justice has been the subject of extensive media coverage. These are ongoing sensitive issues for which the Minister requires clear space, free from public pressure, to discuss with officials and allow all issues relating to the proposed secondment and any future secondments to be fully considered.

The release of information relating to the proposed secondment at this stage would most likely lead to further media coverage. With the additional media coverage it is highly likely that it would not be possible to freely consider issues relating to the proposed secondment and future secondments. Furthermore, releasing information on such a sensitive and high-profile issue could place undue external pressure on the decision-making process and potentially prejudice any ultimate decision.

Conclusion

In conclusion, the balance lies in not releasing any information in response to the request.