



FREEDOM OF INFORMATION REQUEST

Please note the text of this request has been reproduced exactly as received

FOI Reference number: 2/2022

Date: 7th April 2022

Request:

Can I refer you to minutes of the meeting of NIPB Resources Committee on 30 July 2020, where the judgement of Judge McBride was discussed in relation to the Charities Commission. This was brought to the attention of the Resources committee by the T/Director of Police Administration.

Page 3 of the minutes, final paragraph (and continued to page 4)

“**AGREED** that correspondence should be issued to the Department of Justice to ask for clarification about if, when and how it intends to make any amendments to the *Police (Northern Ireland) Act 2000* in light of the judgement”

I wish to make a Freedom of Information Request as Follows:

1. What action did NIPB take as a result of this statement? (a copy of this action should be sent to me)
2. What was the response to form the Department of Justice to 1 above? (a copy should be sent to me)
3. What is the legal rationale being used, in comparing a judgment in respect of an organisation dealing with charitable donations, with, the National Police (Injury) Regulations 2006, as such action overrides the statutory legislative procedures applicable to Northern Ireland to deal with IoD Award Police Pensions?

Answer

1. Owing to the new processes which were implemented and ratified by the Resources Committee subsequent to the *McKee & Hughes v The Charity Commission for Northern Ireland* [2020] NICA 13 judgment (the CCNI Judgment) no such correspondence was issued to the Department of Justice (DOJ).
2. Please see response to Question 1 (above) confirming that a letter was not issued to the DOJ.
3. The Charity Commission for Northern Ireland (CCNI) mirrors the Northern Ireland Policing Board (the Board) in that it is also a non-departmental public body, sponsored by a government department. CCNI's founding primary legislation (the Charities Act (Northern Ireland) 2008) mirrors the Board's founding primary legislation being the Police (Northern Ireland) Act 2000 (the Police Act).

The McKee judgment was delivered by the Court of Appeal on 19 February 2020 and it upheld the earlier High Court judgment delivered by Madam Justice McBride on 16 May

2019. The Court of Appeal upheld the High Court's earlier decision that CCNI could not discharge its decision making functions to a member of staff. Rather, it was held that CCNI as a "body corporate" must make all decisions required to fulfil its statutory powers, obligations and functions as outlined in legislation. Accordingly, in light of a specific suite of police pension and injury on duty regulations (these Regulations include the Royal Ulster Constabulary Pensions Regulations 1988, the Police Pension (Northern Ireland) Regulations 2009, the Police Pension Regulations (Northern Ireland) 2015 and PSNI and PSNI Reserve (Injury Benefit) Regulations 2006) and in line with this judgment it is the Board that is the final decision maker in all matters related to police pension and injury on duty.

The Board has (further to the Police Act) delegated this authority to its Resources Committee.

A full copy of the judgment can be reviewed at
<https://www.bailii.org/nie/cases/NICA/2020/13.html>

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:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114
Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may 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.