



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2008-04391

**Keyword:** Road Policing

**Subject:** CALIBRATION CERTIFICATES

**Request:**

Please could you forward calibration certificates for the Breath analyzer used on patrol by Con XXX, Larne on 12-9-08?

**Answer:**

I have today decided to disclose records numbered 01719.pdf subject to the deletion of information pursuant to the provisions of section 40(2)(a) and (b) of the Freedom of Information 2000 (the Act). Please find record numbered 01719.pdf attached.

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

The exemption, as well as the factors the Department considered when deciding where the public interest lies, are Section 40(2)(a) and (b), Personal Information.

The Information is classified as 'Personal Information' because it identifies individuals who are the Technical Officers responsible for carrying out the calibration checks.

The information you have requested includes personal data of which you are not the subject and the information falls within paragraphs (a) to (d) of the definition of 'data' in Section 1(1) of the Data Protection Act 1998 and disclosure of the information to a member of the public otherwise than under this Act would contravene data protection principles.

Section 40 is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure.

The data protection rights of a third party would be breached by disclosure, therefore Section 40(2) is an absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998) and there are two elements to this exemption.

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always

view any disclosure as into the public domain. Thus the PSNI must be satisfied that any release of information will be potentially available to the general public. It is therefore on this basis that the following is very relevant.

The first element of this exemption is engaged if the information requested constitutes personal data and is made by the data subject. The information will be covered by section 40(1) and the request will be dealt with under section 7 of the Data Protection Act 1998, rights of access.

The second element of this exemption is engaged if the personal data is about someone other than the applicant. Where someone makes an application for information other than the data subject, disclosure of that information will often constitute a breach of the Data Protection Act covered by section 40(2).

Personal Data is regulated under the principles of the Data Protection Act 1998 and when information contains personal data about a third party it can only be refused if disclosure would breach any of the data protection principles.

As previously highlighted, any disclosure under FOIA is a public disclosure and release of the identity of an individual would breach principles 1 & 2 of the Data Protection Act 1998.

Principle (1), that personal data is processed lawfully and fairly. The name rank and number of the Technical Officer is recorded for the purpose of verification of the carrying out of calibration checks. To process this information for any other purpose would be a breach of this principle.

Principle (2), that personal data is processed for a specific purpose and not further processed in any manner incompatible with that purpose. The name rank and number of the Technical Officer is recorded for the purpose of verification of the carrying out of calibration checks. To further process this information by releasing it into the public domain and any further, subsequent processing would be a breach of this principle.

It should be noted that whilst weekly calibration checks of the Alcolmeter S-L2A are a manufacturers recommendation to which the PSNI strives to adhere, they are not a legal requirement. The Alcolmeter S-L2A is in fact used, in certain predefined circumstances as a roadside screening device. The result of any test carried out on this device is not relied upon in the prosecution case against any individual.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto:foi@psni.pnn.police.uk).

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that all PSNI replies under Freedom of Information will be released simultaneously into the public domain via our website @ [www.psnipolice.uk](http://www.psnipolice.uk).

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

