



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-03526

Keyword: Finance

Subject: PAYMENT DETAILS, FROM PUBLIC FUNDS, PATTEN SEVERANCE PAYMENT

Request and Answer:

Question

We believe that an ex-member of PSNI acted in a manner which is of great concern to the general public and therefore under the Freedom of Information are requesting the full payment details, from public funds, concerning this ex-member's full Patten Severance payment.

Answer

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply the first duty, at Section 1(1)(a), is to confirm or deny whether the information specified in the request is held. The second duty, at Section 1(1)(b), is to disclose information that has been confirmed as being held. Where exemptions rely upon Section 17 of the FOIA requires that we provide the applicant with a notice which:

- (a) states that fact,
- (b) specified the exemption(s) in question; and
- (c) state (if it would not otherwise be apparent) why the exemption(s) apply.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemption:

Section 40(5) Personal Information.

A disclosure under the Freedom of Information is a release of information to the world in general and not an individual applicant. Therefore, simply confirming or not that such information were held would disclose personal information about an individual thereby breaching the Data Protection Act. Neither confirm nor deny is needed to protect any harm, which may arise if the Police Service of Northern Ireland has to confirm or deny it holds particular information. In some situations, simply to confirm or deny whether a particular category of information is held could in itself disclose sensitive or damaging information.

Personal data if held by a police service should not be disclosed into the public domain and privacy must be respected.

Any information released under the Freedom of Information Act in response to requests is deemed to **be released into the public domain.**

I can, however, advise you, as required by Section 17(4) of the Act that such information, if it were to exist, would be reasonably expected to be exempted under Section 40(5) - Personal Data.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

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 personal data of an individual would breach principles 1 & 2 of the Data Protection Act 1998.

Principle (1), that personal data is processed lawfully and fairly. Personal data imparted will be confidential and any public disclosure would be unlawful if there would be a breach of that law of confidentiality. It would be unfair to an individual concerned to disclose his/her personal data into the public domain.

Principle (2), that personal data is processed for a specific purpose and not further processed in any manner incompatible with that purpose. Once personal data has been publicly disclosed, it will in most cases be used for a purpose other than it was initially obtained. Public disclosure would cause unnecessary distress or damage to the persons involved, they would not have an expectation their personal data will be disclosed to others or possibly used for another purpose.

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 letter.

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.

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 PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psni.police.uk

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