



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-03146

Keyword: Operational Policing

Subject: BRITISH NATIONAL PARTY MEMBERSHIP LIST

Request and Answer:

In November 2008 the membership list of the British National Party (BNP) was published online. On September 1, 2009 a disgruntle former official Matt Single was convicted in relation to this for offences under the Data Protection Act.

I refer to Schedule 1 of The Data Protection Principles. Under Schedule 1, any use of 'sensitive personal data' must be processed only when at least one of the conditions in Schedule 2 is met, and at least one of the conditions in Schedule 3 is also met.

Question 1

Please tell me if the Police Service of Northern Ireland has processed any data relating to the leaked British National Party membership list.

Question 2

Please tell me which of the conditions in Schedule 2 and Schedule 3 were met when processing sensitive personal data?

Question 3

Has sensitive personal data been used for any purposes other than comparing against the Police Service of Northern Ireland Police personnel database?

Question 4

Who was responsible for the decision to compare sensitive personnel data against the Police Service of Northern Ireland Police's personnel data?

Question 5

What were the grounds for such a decision?

Question 6

I request the minutes of any meeting held to come to such a decision.

Question 7

Please describe the process used in making such a decision and whether the consequences of this decision, if any, were assessed.

Answer

The PSNI can neither confirm nor deny it holds any information in relation to investigations it may have or have not conducted, which have not subsequently been placed in the public domain. Not only would this undermine any current investigation by alerting those who are suspected of criminal activity, but it may also thwart any such investigation which is being managed as a covert operation. This in itself would disclose our tactical options, undermining future operations, but also in this case potentially disclose personal data of an individual. This is because the list to which you refer

contained the names of individuals. To confirm, or deny that certain action may or may not have been taken will reveal whether an individual named was suspected of being employed by the PSNI. This may not in fact mean they are a member of the BNP but in fact do no more than simply confirm that we have a member of staff with the same name as one that appears on the list.

In accordance with the Act, this letter represents a Refusal Notice for this particular request. I can, however, advise you, as required by Section 17 of the Act that such information, if it were to exist, would be reasonably expected to be exempted under;

Section 30(3) Investigations,
Section 31(3) Law Enforcement and
Section 40 (5) (b)(i) Personal Information.

Before refusing to comply with the provisions of S1(1)(a) of the Freedom of Information Act, the PSNI also has to analyse any public interest factors in neither confirming nor denying that information is or is not held if any of the exemptions cited are qualified in nature. Both S30 and S31 are, so the following public interest factors are relevant.

S30 Investigations

Favouring confirmation or denial:

Confirming the existence of information would show that the PSNI conducted an investigation, which the public would expect.

Against confirmation or denial:

An investigation if unknown could be compromised and it could hinder the prevention or detection of crime. That may even be because under FOIA forces may provide different responses and application of the S30 exemption in some areas and not others would in fact immediately expose such investigations.

S31 Law Enforcement

Favouring confirmation or denial:

Some information regarding the ability to check against the list is already in the public domain and its full usage would make the public better informed.

Against confirmation or denial:

Law enforcement tactics could be compromised and there could be a hindrance to the prevention or detection of crime.

Balance of Public Interest

At this time the potential harm to current and future investigations outweighs any public benefit in knowing if any additional information is, or is not held. Police Officers and staff are held to public account for their actions by the PSNI Code of Ethics and the PSNI is held to account for investigating such matters appropriately by Her Majesties Inspector Of Constabulary, and/or in some cases by the Police Ombudsman for Northern Ireland. There is no further tangible community benefit in complying with section 1(1)(a) of the Act at this time.

This response should not be taken as an inference that the force does, or does not hold any further information in relation to your request.

It may assist you to know that the Police Service would be legally entitled to process this sensitive personal data anyway, under Schedule 2 Condition 5 and Schedule 3 paragraph 10 (Statutory Instrument 417/2000, the Data Protection (Processing of Sensitive Personal Data) Order 2000, paragraph 2). The grounds for any decision would be that being a member of the BNP is incompatible with the role of a police officer/police staff and would be regarded as gross misconduct requiring formal action. This does not however mean that the force have taken such action at this time.

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

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.psnipolice.uk

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

