



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-02236

Keyword: Operational Policing

Subject: USE OF PSNI HELICOPTER - F DISTRICT

Request and Answer:

Question 1

How many times has the PSNI helicopter been used in South Fermanagh (Rosslea, Newtownbutler, Donagh, Lisnaskea and surrounding areas) in each month since July 2008?

Answer 1

Your request for information has now been considered and the decision has been taken not to supply the information you have requested.

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

The exemptions, as well as the factors the Department considered when deciding where the public interest lies are listed below:

Qualified Exemptions

Section 24 (1) National Security
Section 31 (1) (a) (b) (c) Law Enforcement
Section 38 (1) (a) (b) Health and Safety

HARM

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole.

Release of information under FOIA must be considered a release of information to the world as a whole. It could be argued that it would be in the public interest to demonstrate that the PSNI is actively involved in the prevention and detection of terrorist based and criminal activities. Providing evidence of police methodology and accurate information may inform public debate and boost levels of confidence within the community.

However, PSNI consider that damage could be caused to national security if information relating to the use of the PSNI helicopter was released. This could assist terrorist/criminal groups in evaluating the deployment of police resources in any particular area of Northern Ireland.

This may in turn adversely affect the efficiency and effectiveness of the PSNI's helicopter. Public safety is of paramount importance to the PSNI and must always be considered. It is not in the public interest to disclose information that may

compromise the PSNI's ability to fulfil its core function of law enforcement.

The release of this type of information would rarely be in the Public Interest and may reduce the PSNI's capability to perform its overall functions under the Police (NI) Act 2000, which states:

"It shall be the general duty of police officers –

to protect life and property;
to preserve order;
to prevent the commission of offences;
where an offence has been committed, to take measures to bring the offender to justice."

An example of where harm could occur may best be demonstrated with a fictional scenario. If I made a Freedom of Information request, asking for details of what resources had been deployed by the PSNI to a particular operation i.e. the pursuit of a car containing an armed robbery gang, though a town in Northern Ireland, you and also any potential criminals/terrorists, would have on receipt of the information, an insight into the types of resources PSNI would deploy in a similar situation. This could give the criminal/terrorist fraternity the ability to estimate the level of Police coverage of a similar situation. This could provide them with the ability to gauge the level of resources deployed and plan an alternative means of escape thus avoiding apprehension.

Section 38 of the Freedom of Information Act 2000 also protects an individual's physical health and mental wellbeing whether the harm is real or perceived. Therefore the PSNI feel that by releasing the information you have requested would not be in keeping with the Act.

Public Interest Test

The public interest test relevant is as follows: -

Favouring Disclosure

Accountability

There is a general public interest in the way that police work and for public bodies to be accountable for their actions. Information, which enables the efficiency and effectiveness of PSNI to be scrutinised, will be of benefit to the community.

Media and Public Interest

To satisfy the media and public interest.

Public Debate

Where the release of information would contribute to the quality and accuracy of public debate.

Accountability for Public Funds

Where public funds are being spent, there is a public interest in accountability and justification.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the Service

Where current or future law enforcement role of the service may be compromised by the release of information.

Balancing Test

The public interest in maintaining the exemptions applied to the information outweighs the public interest in disclosing the information. The PSNI must protect the health and safety of individuals.

On balance it is not in the public interest to release this information.

Question 2

Have the PSNI introduced a policy whereby personnel are only allowed to enter South Fermanagh by helicopter because of the dissident republican threat?

Answer 2

In reliance on the exemptions in sections 23(5), 24(2), 31(3), 38(2) and 40(5) of the Freedom of Information Act (2000), PSNI can neither confirm nor deny whether we hold any information relevant to question 2 of your request.

Refusal Notice.

Section 17 of the Act provides:

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision in part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which-

- (a) States the fact,
- (b) Specifies the exemption in question, and
- (c) States (if that would not otherwise be apparent) why the exemption applies.

The PSNI can neither confirm nor deny that it holds any information relevant to question 2 of your request as the duty in s1 (1) (a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions.

Absolute Exemption

Section 23 (5) Information supplied by, or concerning, certain security bodies.

Qualified Exemptions

Section 24 (2) National Security.

Section 31 (3) Law Enforcement

Section 38 (2) Health and Safety

Section 40 (5) Personal Information

To the extent that section 23,(5), 24(2), 31(3), 38(2) and 40 (5) applies, it has been determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether or not the information is held.

HARM

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole.

The release of information under FOIA must be considered a release of information to the world as a whole. Therefore, simply confirming or not that such information were held could disclose sensitive information.

Public Interest Test

The public interest test is as follows: -

Considerations Favouring Disclosure

Accountability

When information relates directly to the efficiency and effectiveness of the PSNI or its officers it would generally be of benefit to the community to confirm whether information requested is held or not.

Public Debate

To confirm whether information requested is held or not could contribute to the quality and accuracy of public debate and encourage the community to be more vigilant and proactive in the fight against crime.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the service.

In respect of question 2 to confirm or deny whether any information is held or not has the potential to compromise the prevention and detection of crime.

Current investigations

It is in the public interest to engage the neither confirm nor deny principles to any information that may be of assistance to anyone involved in criminal activity.

Balancing Test

Having considered the arguments highlighted above it is considered that the balance in the public interest test is one of maintaining the exclusion of the duty to confirm or deny as it outweighs the public interest in disclosing whether PSNI holds the information requested in question 2.

Question 3

How many helicopters do the PSNI in F District have access to?

Answer 3

From July 2008 to August 28th 2009 PSNI in F District had access to one operational Police helicopter however, from August 28th 2009 to present day PSNI F District have access to two operational Police helicopters, as recently PSNI have leased a second helicopter on a short term basis to meet specific operational requirements.

However, in reliance on the exemptions in sections 24(2), 30 (3), 31(3), 38(2) and 43(3) of the Freedom of Information Act (2000), PSNI can neither confirm nor deny whether we hold any other information relevant to question 3.

Refusal Notice.

Section 17 of the Act provides:

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision in part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which-

- (a) States the fact,
- (b) Specifies the exemption in question, and
- (c) States (if that would not otherwise be apparent) why the exemption applies.

The PSNI can neither confirm nor deny that it holds any other information relevant to question 3 of your request as the duty in s1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions.

Qualified Exemptions

Section 24 (2) National Security.

Section 31 (3) Law Enforcement

Section 30 (3) Investigations

Section 38 (2) Health and Safety

Section 43 (3) Commercial Interests

To the extent that section 24(2), 30(3), 31(3), 38(2) and 43 (3) applies, it has been determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether or not the information is held.

HARM

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole.

The release of information under FOIA must be considered a release of information to the world as a whole. Therefore, simply confirming or not that such information were held could disclose sensitive information.

Public Interest Test

The public interest test is as follows: -

Considerations Favouring Disclosure

Accountability

When information relates directly to the efficiency and effectiveness of the PSNI or its officers it would generally be of benefit to the community to confirm whether information requested is held or not.

Public Debate

To confirm whether information requested is held or not could contribute to the quality and accuracy of public debate and encourage the community to be more vigilant and proactive in the fight against crime.

Considerations Favouring Non-Disclosure

Efficient and effective conduct of the service.

In respect of question 3 to confirm or deny whether any information is held or not has the potential to compromise the prevention and detection of crime.

Current investigations

It is in the public interest to engage the neither confirm nor deny principles to any information that may be of assistance to anyone involved in criminal activity.

Interests of Third Parties

PSNI neither confirm nor deny information when third party interests might be jeopardised if it relates to sensitive commercial information held about business, financial, contractual or operational issues.

Balancing Test

Having considered the arguments highlighted above it is considered that the balance in the public interest test is one of maintaining the exclusion of the duty to confirm or deny as it outweighs the public interest in disclosing whether PSNI holds the information requested in question 3.

If you have any queries regarding your request or the decision please do not hesitate to contact 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.psni.police.uk

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