



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2010-03244

**Keyword:** Crime

**Subject:** Communications Providers

### Request and Answer:

#### Request

I am writing in relation to communications data. I wish to apply for a full disclosure of the following information under the Freedom of Information Act 2000.

Please provide the following information:

1. The total amount of money paid by the Police Service of Northern Ireland to mobile phone companies for access to data which could benefit criminal investigations in each of the last five financial years
2. Please detail how much money was paid to each mobile phone companies in each of the above years.
3. The total amount of money paid by the Police Service of Northern Ireland to Internet Service Providers (ISPs) for access to data which could benefit criminal investigations in each of the last five financial years
4. Please detail how much money was paid to each ISP in each of the above years.

#### Answer

No breakdown can be given as to the amount spent on each individual Provider. It has been accepted by the ACPO Data Communications Group and the Home Office that the disclosure of this information could adversely impact the communication company's business, by highlighting how much is spent could indicate the capabilities of a provider. This may lead to their customers or potential customers moving to another provider, based on this information.

I have today decided to:

- Provide information in relation to Questions numbered 1,2,3 and 4 subject to the deletion of information pursuant to the provisions of Sections 43 and Section 31 of the Freedom of Information 2000 (the Act); and

- Year 05/06 spent £346,687.80 including VAT on all commutations data received.
- Year 06/07 spent £312,304.18 including VAT on all commutations data received.
- Year 07/08 spent £176,694.86 including VAT on all commutations data received.
- Year 08/09 spent £167,670.75 including VAT on all commutations data received.
- Year 09/10 spent £236,246.96 including VAT on all commutations data received.

Section 17(1) 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.

### Harm

Some companies have bespoke systems to accommodate the disclosure of data via a secure system to enable virtual 'real-time' collection by the police and those systems need to be funded through cost recovery.

To disclose the actual breakdown of prices charged by these companies would reveal an inaccurate 'skewing' of the cost recovery statistics as Service Provider's who have built bespoke systems provide more services than Service Provider's who do not. Any misinterpretation by individuals may result in certain Service Provider's being branded as 'the criminal's choice' which would damage the working relationship between the police, Service Provider's and the Government.

With this relationship impeded, a Service Provider may pull their services without prior notice which would compromise the prevention and detection of crime.

Disclosure would also reveal which Service Provider's are limited in their abilities and those which have the better capabilities, potentially giving a tactical advantage to criminals who would choose networks based on risk.

A total breakdown of charges would reveal the services by Service Provider's, which would include covert services. Any such disclosure would provide the full inabilities and capabilities of each Service Provider which in turn would benefit a terrorist or criminal by revealing what services and systems are used by the Police Service. This awareness would enable members of the criminal fraternity to take evasive steps to avoid detection.

The charge a private company makes for their services is an individual agreement between the Service Provider and the Force/Service. To provide costing details would undermine the company in its ability to be competitive when providing services to the public sector. Any such disclosure would compromise that company's pricing structures which would leave them vulnerable to unfair negotiations when a customer requires their services.

### Exemptions

The above harm engages Section 43 and Section 31.

Section 43(2) Commercial Interests is a prejudice based Qualified exemption and as such requires the harm to be evidenced and a public interest test to be carried out.

Section 31(1)(a)(b)(c) Law Enforcement is also a prejudice based Qualified exemption which requires the prejudice (harm) to be evidenced and a public interest test to be carried out.

## Public Interest Test

### Considerations favouring Disclosure

When information disclosed relates directly to the efficiency and effectiveness of the Force/Service or its officers it is generally of benefit to the community. In this case, the release of information will enable the public to have a better understanding of the efficiency and effectiveness of the police service.

One of the underlying principles of the Freedom of Information Act is the need for authorities to be more open and transparent. In this case, to provide the full detail of costings for telephony data would provide the community with an awareness that public funds are being used to resource and finance the use of expert technology to assist in the prevention or detection of crime; the apprehension or prosecution of offenders and the administration of justice.

### Considerations favouring Non-Disclosure

Where a current or future Law enforcement role of the Force/Service may be compromised by the release of information. In this case, disclosure of the information may enable individuals or terrorist organisations to identify expert technology and methods used by the police service as part of an intelligence gathering operation. The effectiveness of current and future strategies to combat terrorist activity may be compromised and may also inhibit the ability to prevent crime.

Although the request does not ask for personal information the interests of third parties, i.e. the Communication Service Providers, is compromised. The Police Service has a moral duty to protect the sensitive commercial information it holds about any private company they have dealings with. In this case, to provide the fine detail of how much the company charges together with a breakdown of the charge would prejudice the commercial interests of that company, as detailed within the harm above.

There may be occasions where the release of information relating to public safety may not be in the public interest. Public safety is of paramount importance to the policing purpose and must be considered in respect of every release. As evidenced within the harm, by providing individuals with information which would assist their offending behaviour to enable them to carry out offences which could lead to loss of life and injury, would place the safety of the community in jeopardy.

### Balancing Test

When balancing the public interest test we have to consider whether the information should be released into the public domain. Arguments need to be weighed against each other. The most persuasive reason for disclosure is Use of Public Funds which needs to be compared to the strongest negative reason, which in this case is Public Safety. The police service cannot and will not disclose information which will place the public at risk by undermining national security or law enforcement thereby assisting those intent on committing crime.

Information released under FOIA, where exemptions apply, will only be done where there is a tangible community benefit which is more powerful than the harm that could be done. This does not apply in this case.

On balance, and from the harm evidenced above, the information requested should be protected and exemptions applied.

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](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 PSNI replies under Freedom of Information may be released into the public domain via our website @ [www.psni.police.uk](http://www.psni.police.uk)

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