



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2010-00346

**Keyword:** Crime

**Subject:** COMMUNICATION SERVICE PROVIDERS

### Request and Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- Provide information in relation to Questions numbered 1,2 and 3 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
- Fully exempt the Answers to Questions 4 and 5 pursuant to the provisions of Sections 43 and Section 31 of the Act.

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.

### Question 1

The number of times you have requested data from Communications Service Providers (CSP's), the times these requests were made and the name of the CSP.

### Answer 1

The number of times data requested from CSP's:-

Year 2006 there were 3000 applications made of CSP's processed.

Year 2007 there were 3002 applications made of CSP's processed.

Year 2008 there were 4151 applications made of CSP's processed.

Year 2009 there were 3973 applications made of CSP's processed.

Year 2010 there were 519 applications made of CSP's processed (up to 24th Feb 2010)

## **Question 2**

The type of data requested. For instance:

- Subscriber details for a SIM card
- Directory of communications made using a SIM card, including text messages and phone calls
- Copies of communications data, including SMS messages or answer phone messages
- Internet surfing habits and history of a CSP customer,
- Email data for a CSP customer, including content of emails
- The geographic location of a SIM card or mobile phone
- Other data not listed above

## **Answer 2**

The type of data requested fell into 3 categories:-

- Account details
- Service use
- Traffic data

## **Question 3**

Details of prices you have paid to CSP's for obtaining this data, or such price lists or price data currently held by the council.

## **Answer 3**

Cost incurred in gaining communications data:-

- Year 05/06 spent £346,687.80 including VAT on all communications data received.
- Year 06/07 spent £312,304.18 including VAT on all communications data received.
- Year 07/08 spent £176,694.86 including VAT on all communications data received.
- Year 08/09 spent £167,670.75 including VAT on all communications data received.
- Year 09 to 24/02/2010 spent £124,954.60 including VAT on all communications data received.

## **Question 4**

Details of how you obtained this data from CSP's, which might include:

- Sending an email request to the CSP
- Telephoning the request to the CSP
- Faxing the request to the CSP
- Other methods not listed above

## **Question 5**

The total cost of making all these requests

## **Answers to Questions 4 and 5 and any further information relating to the Answers to Questions 1,2 and 3**

No breakdown can be given as to the number of applications applied for, information received from, or money spent on each individual CSP's. 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 often law enforcement agency's are making requests from them, which may lead to their customers or potential customers moving to another provider, based on this information.

## 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 CSP's who have built bespoke systems provide more

services than CSP's who do not. Any misinterpretation by individuals may result in certain CSP's being branded as 'the criminal's choice' which would damage the working relationship between the police, CSP's and the Government.

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

Disclosure would also reveal which CSP'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 provided by CSP's, which would include covert services. Any such disclosure would provide the full inabilities and capabilities of each CSP 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 CSP 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 prejudiced 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.