



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F 2010 00228

**Keyword:** Crime

**Subject:** VEHICLE MOVEMENTS ON THE LISBURN ROAD

**Request and Answer:**

### Question

Copy of vehicle movements on Lisburn Road adjacent to Lisburn Road Police Station on the 13 July 2009 between 2115 and 2130 hours.

### Answer

In accordance with the Act, this letter represents a Section 17(1) Refusal Notice for this particular request. The Police Service of Northern Ireland can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information (FOI) Act 2000 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 are relied upon Section 17(1) of FOIA requires that we provide the applicant with a notice which

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

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 FOI Act 2000 does not apply by virtue of the following exemptions :

- Section 30 (3) Investigations.
- Section 31 (3) Law enforcement.
- Section 40 (5) Personal Information

To give a statement of the reasons why these exemptions apply would involve the disclosure of information which would itself be exempt. Therefore, under section 17(4) of the Act, we are not obliged to give such a statement.

This is because the FOI Act 2000 places a legal obligation on public authorities to confirm in response to a request whether or not any information exists. Therefore without even disclosing the information, the application of an exemption would identify that information was held. A good example would be a simple question such as “*Is John Smith a criminal ?*”. To confirm no information is held would tell the world he is not one but to exempt the information would disclose that he is. In all such cases the only way to protect John Smith is to neither confirm or deny whether the information does or does not exist.

The above exemptions are qualified which means I am required to conduct a public interest test in relation to their usage in neither confirming nor denying the existence of any information.

## **Public Interest Test.**

### **Section 30 (3) Investigations.**

*Factors favouring confirmation or denial*

If such an investigation/investigations took place then the public interest is in investigations being carried out correctly.

*Factors not favouring confirmation or denial:*

Many investigations are still active and routine confirmation or denial would prejudice the prevention or detection of crime.

### **Section 31(3) Law Enforcement.**

*Factors favouring confirmation or denial*

Better awareness may lead to improved information in the public domain.

*Factors not favouring confirmation or denial*

Operational capabilities would be placed at risk. Such a disclosure would seriously impact on the operational effectiveness of the police service in carrying out it's law enforcement role.

### **Section 40(5) Personal Information**

*Factors favouring confirmation or denial*

To neither confirm or deny whether the information does or does not exist would place individuals at risk.

*Factors not favouring confirmation or denial*

Under Part IV of the Data Protection Act 1998 data subjects right to be informed whether personal data being processed.

## **Balance Test :**

I am obliged to weigh up the above factors in order to determine whether the public interest lies in maintaining a neither confirm nor deny stance. In this case, the public benefit in being more aware of incidents is outweighed by the potential risk to investigations and law enforcement.

The PSNI has therefore determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to neither confirm nor deny outweighs the public interest in confirming whether or not information is held.

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

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 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.