



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2010-01021

**Keyword:** Road Policing

**Subject:** Releasing Information In Relation to Road Traffic Collisions

### Request and Answer:

This is to inform you that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- disclose information in relation to this request subject to the deletion of information pursuant to the provisions of section 38 and 40 of the Freedom of Information 2000 (the Act).

### Question

Can you confirm that all parties under your command are briefed regarding the release of information to 3rd parties involved in a road traffic collision? As an independent accident investigator it is becoming more frequent and certainly more frustrating when you are told that this information cannot be given out, as it breaches data protection.

This information is requested by a party involved in the RTC and not by me. This is the case even when the party has been taken to hospital for treatment and has been unable to exchange details at the scene.

It is my belief that e-mails are sent at regular intervals force wide by the Head of the Road Policing Unit, Lisnasharragh, stating that any person involved in an RTC is entitled to the details of any other 3rd party involved. If this is the case then supervising ranks are not carrying out their duties by informing those directly under their command.

Under the Freedom of Information Act I respectfully request a copy of this e-mail if one does exist, which can be quoted to any officer who uses the Data Protection Act as an excuse.

### Answer

See attached below a copy of e-mail released to all DCU Commanders and a copy of the relevant point from the Service Procedure providing the guidance for the release of information to third parties involved in a road traffic collision.

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

The staff names have been exempted under the following sections:

Section 38(1)(a)(b) Health & Safety  
Section 40(2) Personal Data

Section 38 is a qualified, prejudice-based exemption, and this means that it is the Public Authority's responsibility to evidence the Harm and the Public Interest Test.

Section 40 is an absolute, class-based exemption, this means that the legislator's have agreed there would be harm if this information were released and so it is not necessary to demonstrate the Harm or carry out a Public Interest Test.

Disclosure under the Freedom of Information is a release of information to the world in general and not an individual applicant. Personal data if held by a police service should not be disclosed into the public domain and privacy must be respected. Personal Data is regulated under the principles of the Data Protection Act 1998 and when information contains personal data about a third party it can only be released if disclosure would not breach any of the data protection principles.

Principle 1 is that personal data must only be processed lawfully and fairly. To process this information for any other purpose, i.e. by releasing it under Freedom of Information would be unfair to the relevant staff and therefore a breach of this principle.

### **Harm**

By identifying specific names of individuals working for the Police Service under the current level of security threat, their personal safety and or property is put at risk of terrorist attack.

### **Public Interest Test**

For Release – Public interest to show how this email has been properly addressed.

For Retention - To release names of police or police staff could identify them to subversives and therefore jeopardise their health & safety given the indiscriminate nature of terrorist attacks.

### **Decision**

In the current climate, no information which may aid a terrorist should be provided. Hindsight is a wonderful gift that we are not in possession of at this time. All PSNI staff entrust that appropriate decisions are taken with regard to their protection, and the only way of reducing the risk is to be ultra cautious. At this time, in these circumstances, it is undesirable to provide the names of staff addressed within this email.

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.

## Traffic Collision Investigation – Service Procedure

### 13(b) Provision of Information

All parties involved in a RTC are legally obliged to exchange names and addresses, names and addresses of the vehicle owner if different, plus the registration number of the vehicles involved. If, due to circumstances, the involved parties either fail to exchange details or lose the details, the police are permitted to provide these details to any of **the involved parties** without committing any breach of Data Protection. It is important to emphasize the point that we should be facilitating release of this information, especially in circumstances where there is no further police action and the member of the public is seeking redress through civil means.

**From:** [REDACTED]  
**Sent:** 29 November 2006 16:45  
**To:** zAll DCU Commanders  
**Cc:** zFOI; zDataProtection; [REDACTED]

**Subject:** RTC - Provision of Information

**Importance:** High

s.F38

s.F38(1)

s.F38(1)(a)

s.F38(1)(b)

s.F40

s.F40(2)

s.F40(2)(a)

All,

In response to a number of representations from CJU managers, FOI and DP team, the following advice is forwarded for dissemination to all relevant persons, particularly CJU managers, under your command.

In the past police normally waited until court proceedings were concluded before releasing Collision Reports to interested parties. However, with PPS now taking the lead in prosecutions, police are often unaware when proceedings have finished. The net result being, that requests from solicitors and insurance companies are not being promptly dealt with, through no fault of police.

- Following consultation with the PPS regarding provision of RTC reports to such interested parties, it has been agreed that once police receive the decision document from PPS, regardless of the decision, they can release reports. The same standards regarding deleting of witness addresses, phone nos etc should still be applied. Note: the I/O recommendations should not be released.
- Where DCUs are still submitting to the CPO, the current arrangements should stand until the PPS take over prosecutions in that district.

On a separate, but associated issue, there has been a marked increase in the number of requests made under FOI for provision of information related to individual RTCs, probably in the belief they can circumvent having to pay for the police report!

- The advice from Data Protection and FOI is that where information is already available through an established process, then the public should be referred to it, i.e. to the Criminal Justice Unit.
- Where an individual who has been involved in an RTC contacts police with a view to obtaining the other parties' details, then police should be supplying name and address of the driver, name and address of the owner and the vehicle VRM, at no cost. *The DP Act makes specific provision for supplying information when legal proceedings are envisaged and this includes civil proceedings. It is when the request comes through a 3rd party that police then charge for the information.*

Trust this is helpful

[REDACTED]  
Inspector  
Road Policing Development  
[REDACTED]

s.F38

s.F38(1)

s.F38(1)(a)

s.F38(1)(b)

s.F40

s.F40(2)

s.F40(2)(a)