



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2010-03594  
**Keyword:** Road Policing  
**Subject:** Parking On Footways

### Request and Answer:

This is to inform you that the Police Service of Northern Ireland (PSNI) has now completed its search for the information you requested and the answers to your questions are as follows.

#### Question

Can you confirm that all personnel under your command have been briefed regarding parking on footways, in which they are exempt for the road traffic laws? (Obstruction)

#### Answer

The PSNI Roads Policing Branch have advised that the parking offence commonly referred to as "Obstruction" only occurs when an obstruction to **premises** is detected or reported. This may occur either on or off the footpath.

#### Question

I had occasion to speak with one of your Traffic Camera Vehicles regarding parking on the footway and was informed they have been told by their authorities they are exempt from this legislation. Everyone is aware an emergency vehicle would be exempt from this law but surely this does not apply to vehicles which are on speed detection duty or indeed any other menial task. The crew informed me emails were sent from Road Policing informing all personnel police vehicles were exempt from this legislation. If this is the case please advise as to the relevant section.

#### Answer

Roads Policing have advised the general exemption applicable to parking restrictions can be found at Art 4(g) of the Roads (Restriction of Waiting) Order (NI) 1982, which states "the vehicle to be used for...police...purposes". This provides an exemption for vehicles used for police purposes, from parking restrictions.

It is recognised that parking on the footpath is likely to attract adverse comment and for this reason this option is reserved as a final resort when all other alternatives have been explored.

#### Question

Under the Road Traffic (Northern Ireland) Order 1995, article 30/31 quite clearly states no parking either partially or fully on the footway, I do not see any exemptions which cover any type of police

vehicle to park and cause obstruction to the footway. I appreciate the Highway Code (section 244) is for information purposes only but one would expect the Police to set an example to the public by adhering to it.

### **Answer**

The legislation referred to applies ONLY to Large Goods Vehicles in excess of 7.5 T - consequently it is irrelevant in the context of the Safety Camera Vans.

### **Question**

If there is not an exemption then these vehicles are clearly committing an offence in order to catch the motoring public, committing an offence. Should it be the case there is no exemption then I believe all the motorists caught by the offending speed detection vehicles should be informed and any penalties rescinded.

### **Answer**

The PSNI Roads Policing Branch have stated that it is a sad reality that police require to have legal exemptions - otherwise the service would be hampered by the law and unable to ever catch law breakers. Many of the sites where the PSNI conduct speed enforcement are as a result of the affected community directly requesting police attention. In these cases the PSNI seek agreement as to a suitable location for the van from those road-users/residents most likely to be affected by the van parking on the footpath.

### **Question**

Under the Freedom of Information Act I respectfully request a copy of any emails or legislation to which this subject refers

### **Answer**

I have today decided to:

- disclose below pages numbered 1 and 2 subject to the deletion of information pursuant to the provisions of sections 38 and 40 and of the Freedom of Information 2000 (the Act).

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 exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 38 (1)(a)(b) - Health and Safety

Section 40 (2)(a)(b) - Personal Information

**Section 38 Health and Safety** is a prejudiced based exemption which means that the PSNI must demonstrate that it is satisfied that to release the information would be likely to endanger the physical or mental health of any individual.

It is also a qualified exemption which means that the PSNI must consider the balance of the public interest in releasing the information against the public interest in withholding it.

A summary of the Harm and Public Interest Test considerations for Section 38 is provided below:

## **Harm Test**

### **Section 38**

The names of Senior Officers in Roads Policing have been disclosed in the information released in response to your request. The identity of these senior officers is already in the public domain. Disclosure of other PSNI staff names contained in the emails could put individuals at risk and impact on their safety. The Service is currently under threat from terrorists and releasing names of personnel could assist these terrorists in targeting individuals. In the last year police officers have been targeted on several occasions with under car booby trap devices. The Independent Monitoring Commission (IMC) in its 23<sup>rd</sup> report have stated that the Real IRA and the Continuity IRA were continuing to recruit and train members, acquire weapons and target potential victims, with police officers the main focus of their activities.

## **Public Interest Test**

### **Factors Favouring Release - Section 38**

Releasing the information would promote openness and transparency. The public would be made aware that officers in the relevant departments are being kept updated regarding policies and procedures.

### **Factors Favouring Retention - Section 38**

Releasing the names of police officers and police staff into the public domain would assist terrorists and criminal elements to use a mosaic approach and link all information available to them to carry out attacks on PSNI personnel on or off duty.

## **Decision**

I have determined that the release of names of PSNI staff, into the public domain would not be in the public interest. The Service is currently under severe threat from terrorists and disclosure of this information has the potential to assist those criminal elements seeking to carry out attacks against police officers/police staff and police premises. The safety of individuals is of paramount importance and the PSNI will not divulge any information which could put lives at risk.

**Section 40 Personal Information** is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure. The data protection rights of a third party would be breached by disclosure, therefore Section 40(2) is an Absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by other law (The Data Protection Act 1998).

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always view any disclosure as into the public domain and not just to an individual.

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. This data was imparted to the PSNI for the purpose of receiving work emails. To process this information for any other purpose, i.e. by releasing it under Freedom of Information would be unfair to the individuals concerned and therefore a breach of this principle.

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.

**FULTON Scott**

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**From:** LEECH Rosemary **s.F38(1) s.F38(1)(a) s.F38(1)(b)**  
**Sent:** 22 December 2010 13:14  
**To:** zAll Inspectors **s.F40(2) s.F40(2)(a) s.F40(2)(b)**  
**Cc:** [REDACTED] CLARK Muir  
**Subject:** Safety Camera Vans parked on footpaths

Colleagues,  
The Safety Camera Vans operate on routes:

- identified as having a collision history AND where speeding is an issue OR
- on routes where speeding is identified as being of community concern.

Sometimes due to the topography of the road, it is not always possible to park the van on the roadside, nor is there a convenient lay-by. In these situations the operator will assess whether it is feasible to park the van on the verge or footpath. It is important to note that:

- the operators are briefed to leave sufficient clearance to permit pedestrians, wheelchair users or mothers with prams to safely pass
- in cases of community concern, the operators and traffic management officers will usually liaise with the local residents to select the most suitable location and ensure inconvenience is kept to a minimum.
- there is **no generic offence** of parking on a footpath

Whilst I recognise this is not the most desirable situation, often it is the **only option** available to permit enforcement to take place.

I would be grateful if you could **brief out to response officers** that whilst we welcome legitimate challenges and will happily move the vehicle in response to genuine public concern, there is no offence of "parking on a footpath" that applies either to the public or to the camera van. We are currently scoping the possibility of issuing our camera operators with cameras in order that we can refute allegations of obstruction.

Complainants should be advised of these facts.

Grateful for your co-operation and assistance in this matter.  
Regards

**Rosie**

Rosemary Leech, Inspector Road Policing, Lisnasharragh, 42 Montgomery Road, Belfast BT6 9LD. Ext: 69451 or Tel: 028 90922451

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11/01/2011

**FULTON Scott**

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**From:** LEECH Rosemary  
**Sent:** 22 December 2010 14:14  
**To:** LEECH Rosemary  
**Subject:** FW: Parking on Footpaths

**s.F38(1) s.F38(1)(a) s.F38(1)(b)**

**From:** [REDACTED] **s.F40(2) s.F40(2)(a) s.F40(2)(b)**  
**Sent:** 13 December 2010 14:19

[REDACTED]

**Subject:** 2.RESTRICTED:: Parking on Footpaths

All

There have been a few complaints recently about the camera vans being parked on footpaths. We will always get complaints about this but as you know it is perfectly legal when carrying out enforcement as long as there is sufficient room for pedestrians to pass.

Unfortunately it would seem that a number of police officers are not aware of this and have in fact asked Operators to move on. This is unacceptable and Insp. Rosie Leech agreed to send an E-mail out to Inspectors asking them to brief their officers accordingly.

If this occurs in future and police ask you to move when you believe you are legally parked, please ask them to contact myself or Insp. Rosie Leech.

Regards  
Gary