



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-01000

**Keyword:** Complaints/Discipline

**Subject:** Enquiries In Relation to an Incident

### Request and Answer:

#### Question 1

I am the landlord for (specified address) and would like to know what happened during (specified incident). I am worried as that house is totally destroyed internally and during the last week one of my first floor windows has been vandalised.

#### Answer

In accordance with the Act, this letter represents a 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 Act 2000 (FOIA) 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 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 Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 30 (3) Investigations and Proceedings Conducted by Public Authorities  
Section 38 (2) Health and Safety  
Section 40 (5) Personal Information

The release of information under the Freedom of Information Act is a release into the public domain and not just to an individual. To confirm that the PSNI hold the requested information would in fact

confirm whether or not this incident was reported to and recorded by the PSNI. This would amount to a release into the public domain, of personal information about the individuals involved. The individuals would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Before refusing to comply with the provisions of section (1) (1) (a) of the Freedom of Information Act, the PSNI also has to analyse any public interest factors in neither confirming nor denying that information is or is not held if any of the exemptions are qualified in nature.

Section 30 and Section 38 are qualified exemptions and so a public interest test must be conducted. Section 38 is also a prejudiced based exemption so the harm in confirming or denying whether the information is held must also be examined.

Also, although Section 40 is an absolute, class based exemption, a public interest test is required for the purposes of Neither Confirming nor Denying that the information is held.

### **Harm Section 38**

To confirm or deny details of the incident are held could raise tensions within the community, lead to disorder and jeopardise the safety of individuals.

### **Public Interest Test Section Section 30**

#### **Factors Favouring Neither Confirming nor Denying**

The public have a right to know how public funds are spent on investigations. Confirmation or denial that the information is held would reveal whether or not an investigation was, or is, being conducted and satisfy public interest.

#### **Factors Against Neither Confirming nor Denying**

Confirming or denying that details of the incident are held could affect the police service's future investigative capabilities which would hinder the prevention or detection of crime. This would impact on police resources and more crime would be committed, placing individuals at risk.

### **Public Interest Test Section 38**

#### **Factors Favouring Neither Confirming nor Denying.**

To confirm or deny the existence of this information would endanger the health and safety of any residents at this address and undermine the PSNI's ability to protect the safety and well being of the community.

#### **Factors Against Neither Confirming nor Denying**

Confirming or denying whether this information is held would lead to better informed public awareness and debate.

### **Public Interest Test Section 40**

#### **Factors Favouring Confirmation or Denial Section 40**

Confirmation or Denial of the existence of the requested information would enable the public to have a better knowledge of what information is recorded by PSNI and therefore a better understanding of

the decision making process when it comes to the disclosure of personal details.

#### Factors Against Confirming or Denying Section 40

To confirm or deny that the requested information is held would amount to the processing of personal information in breach of the Data Protection Act and requests for such information should be made under that legislation.

#### Decision

Whilst there is a public interest in the transparency of the use of public funds and the accountability of the Service, there is a greater need to protect the integrity of police investigations and safeguard public safety.

There is also a strong public interest in maintaining confidence in the PSNI with regard to its handling of individual's personal data. The PSNI should not process such personal data in breach of the DPA in order to satisfy any request under FOI and the exemption under Section 40(5)(a) of the Freedom of Information Act exists for this purpose.

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

#### **Question 2**

Please get back to me on this and how I make a formal record of the incident. Also I would like to know whether I am able to claim for the damaged window under the criminal compensation scheme.

#### **Answer**

To report the incident regarding damaged windows to your property, police can be contacted on 0845 600 8000. Please ask to be put through to B District.

For any other concerns the local neighbourhood officers can be contacted via email on the following address; [BDistLaganbankNPT@psni.pnn.police.uk](mailto:BDistLaganbankNPT@psni.pnn.police.uk)

Information regarding how to claim for criminal damage can be found at the following link; [www.compensationni.gov.uk/index/criminal\\_damage.htm](http://www.compensationni.gov.uk/index/criminal_damage.htm)

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.psnj.police.uk](http://www.psnj.police.uk)

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