



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-01968

Keyword: Complaints/Discipline

Subject: Detailed Report re Fixed Penalty Notice

Request and 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.

Question

I refer to previous correspondence and am some what disappointed you have failed to forward a signed copy of detailed report of the issuing officers. I assume I am entitled to have this under the Freedom of Information Act and accordingly would appreciate this by return.

Answer

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 40 (5) – Personal Information

Although Section 40 is an absolute class-based exemption, a Public Interest Test is required for the purposes of NCND. The release of information under 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 amount to a release into the public domain, of personal information about an individual.

Individuals who give their personal information to the police would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Public Interest Test

Factors Favouring Confirmation or Denial – Section 40

Confirming or denying whether the PSNI hold this information would aid accountability in that the Public could see what action is or is not taken by police when an incident such as this is reported to the police service.

Factors Against Confirmation or Denial – Section 40

Confirming or denying the existence of the requested information would contravene the first principle of the Data Protection Act which states that personal data shall be processed fairly and lawfully and that a public authority must handle people's personal data only in ways that they would reasonably expect. The breach of any individual's data protection rights would be caused by confirmation or denial. This is so whether or not the information is held.

Decision

The public interest is strong in maintaining confidence in the PSNI with regard to its handling of individuals' personal data. No release under FOI should be made where an individual's data protection rights would be breached. Not only would this be a breach of Data Protection legislation by the PSNI, but it would also leave the PSNI open to action against it by individuals concerned.

A disclosure under the Freedom of Information Act is a release of information to the world in general and not just to an individual applicant. The public interest is not what interests the public but what will be of greater good, if released to the community as a whole. It is for these reasons that the public interest must favour neither confirming nor denying that the requested information is held.

Insofar as Section 40(5) applies to any requested information under FOI, i.e. any information that constitutes personal data of which the applicant is the data subject, if you wish to see any information that may/may not be held by PSNI in relation to yourself you may apply under the Data Protection Act. I have enclosed a DAT1 Subject Access Form which should be completed by yourself if you are seeking access to your own personal data. This should be returned to Access to Information Unit, Corporate Development, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE.

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 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.

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

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