



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F 2011 01499

Keyword: Crime

Subject: Investigation of an individual

Request and Answer:

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

Question

Information in relation to the Investigation of an individual.

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 (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 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:

Absolute (in part)

Section 40 (5) Personal Information

This exemption applies because all releases under FOI are releases into the Public Domain. The requested information, if held would relate to a investigation and therefore in turn would

amount to personal information about an individual or individuals. Simply to confirm the existence of the requested information would also amount to a release of personal information about that individual into the public domain. This would be unfair to that individual and not necessary to satisfy the public interest and would therefore be a breach of the Data Protection Act.

Section 40, under most circumstances is an absolute exemption, meaning that a Public Interest Test is not required. For the purpose of neither confirming nor denying however, the 'absolute' status does not apply, and a Public Interest Test is required.

Public Interest Test

Factors Favouring Confirmation or Denial Section 40 (5)

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 (5)

To confirm or deny that the requested information is held would amount to the processing of personal information in breach of the 1st Principle Data Protection Act i.e. "Personal data shall be processed fairly and lawfully". For this reason requests for such information should be made under that legislation and not under the Freedom of Information Act.

Decision

Whilst there is a public interest in the transparency and accountability of the Service, there is also a strong public interest in maintaining confidence in the PSNI with regard to its handling of an 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.

Section 16 Advice and Assistance

For your information I have attached a link below to a Data Protection Act Subject Access Request form which should be completed when a member of the public seeks access to his or her own personal data. It should be noted however that the provision of this link is not confirmation that any relevant information is held and that if any information is held, it may be subject to exemptions under the Data Protection Act.

<http://www.psni.police.uk/dat.pdf>

The Regulation of Investigatory Powers Act 2000 established an independent tribunal to consider all complaints which fall within its jurisdiction.

www.ipt-uk.com

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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.

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.