



FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-02240

Keyword: Crime

Subject: Phone Hacking

Request and Answer:

Question 1

How many complaints has the PSNI received from individuals/organisations in NI regarding phone hacking/phone interception over the past five years?

Question 2

What were these complaints?

Question 3

How many phone hacking/phone interception incidents has the PSNI investigated in NI over the past five years?

Question 4

What were these incidents?

Question 5

How many complaints has the PSNI received from individuals/organisations in Derry regarding phone hacking/phone interception over the past five years?

Question 6

What were these complaints?

Question 7

How many phone hacking/phone interception incidents has the PSNI investigated in Derry over the past five years?

Question 8

What were these incidents?

Question 9

How many complaints has the PSNI received from politicians in Derry regarding phone hacking/phone interception over the past five years?

Question 10

What were these complaints?

Question 11

How many phone hacking/phone interception incidents has the PSNI investigated in Derry over the past five years?

Question 12

What were these incidents?

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 23(5)-Information relating to Security Bodies

Section 24 (2)-National Security

Section 30(3)- Investigations and Proceedings conducted by Public Authority

Section 31(3)- Law Enforcement

Section 40(5)-Personal Information

Section 23(5) - Info relating to Security Bodies

The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

This is an absolute exemption and I am therefore not required to complete a public interest test.

Section 24 (2) - National Security

This is a class based and qualified exemption and therefore there is a requirement to articulate the harm caused by confirming or denying the information that is held as well as carrying out a public interest test.

Section 30(3) - Investigations

This is a class based and qualified exemption. If the information were held it must fit into the class of information covered by this exemption and if it were held it would be held for the purposes of an

investigation to determine whether an offence has been committed and therefore would clearly fall within the class of information provided by this exemption.

Confirming or denying that the PSNI holds any information in relation to investigations it may or may not have conducted would undermine any such investigation by alerting those who are suspected of offences and giving them the opportunity to and means to influence the outcome of any such investigation or subsequent Court proceedings, including any subsequent potential appeal or retrial.

As section 30 is a qualified exemption a public interest test is necessary.

Section 31(3) – Law Enforcement

This is a prejudiced based exemption which means that the public authority must demonstrate the harm in the release of the information. It is also a qualified exemption which means that the public authority must consider the balance of the public interest in releasing the information against the public interest in withholding it.

Section 40(5) - Personal Information

To confirm or deny whether personal information exists in response to your request could publicly reveal information about an individual or individuals, thereby breaching the right to privacy afforded to persons under the Data Protection Act 1998. When confirming or denying that information is held would breach an individual's rights under the Data Protection Act 1998. Although Section 40 is an absolute class-based exemption, a Public Interest Test is required for purposes of NCND.

Harm Test

Section 24

Modern policing is intelligence led, and intelligence changes on a day-by-day basis. As disclosures under the Freedom of Information Act are disclosures to the world and not solely to the individual making the request, therefore revealing information regarding phone hacking would consequently be detrimental to our ability to be able to deal with the ongoing serious terrorist threat in Northern Ireland. It should be recognised that the international security landscapes is increasing complex and unpredictable.

Section 31

To release details of phone hacking/phone interception incidents could compromise the security and operations of the PSNI. To reveal incidents could alert individuals involved in serious and organised crime thus enabling them to take action in order to cover their tracks and avoid apprehension and destroying evidence. This could give criminals/ terrorists an opportunity to take advantage of this situation.

Public Interest Test

Factors Favouring Confirmation or Denial – Section 24

Confirmation or denial that any information exists relevant to the request would lead to a better informed public. The public are entitled to know how funds are spent. The information simply relates to national security and disclosure would not actually harm it.

Factors Against Confirmation or Denial- Section 24

To confirm or deny whether the PSNI hold any information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place in a given area. This could enable terrorist groups to take steps to avoid detection, and as such,

confirmation or denial would be damaging to national security

By confirming or denying that any information is held would render security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infrastructure of the UK and increase the risk of harm to the public. This would place operational capabilities at risk as there are terrorists who would act on such information and use it to their advantage, jeopardising security

Factors Favouring Confirmation or Denial - Section 30

The public have a right to expect transparency and accountability in relation to the use of Public Funds. The release of such information would provide an insight into the police service and enable the public to have a better understanding of the effectiveness of the police. By confirming or denying the information you requested the public will be informed of investigations that public funds are spent on.

Factors Against Confirmation or Denial - Section 30

To confirm or deny whether any information is held would impact on the ability of the force to investigate such illegal activity. The confirmation or denial that information exists would hinder the prevention and detection of crime as criminals would be aware that their illegal activity was being monitored or investigated by the police.

Factors Favouring Confirmation or Denial - Section 31

The public have a right to expect transparency and accountability in relation to the use of Public Funds. By confirming or denying the information you requested the public will be informed of investigations that public funds are spent on.

Factors Against Confirmation or Denial - Section 31

To confirm or deny whether any information is held would impact on the ability of the PSNI to investigate such illegal activity. The confirmation or denial that information exists would hinder the prevention and detection of crime as criminals would be aware that their illegal activity was being monitored or investigated by the police.

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 was or was not recorded by police in relation to any incidents reported to them.

Factors Against Confirmation or Denial – Section 40

The breach of an individual's data protection rights would be caused by confirmation or denial. This is so whether or not the information is held, because if the PSNI refused to confirm or deny only in cases where information is held then it may be reasonably concluded that information is held when NCND is used.

Decision

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The PSNI will not divulge whether information is or is not held if to do so would adversely affect these important roles. Whilst there is a public interest in the transparency of policing operations and providing assurance that the PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations and operations, and in maintaining confidence in the PSNI with regard to its handling of individual's personal data. It is for these reasons that the Public Interest must favour neither confirming nor denying that the requested information is held.

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.