



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2011-02128

**Keyword:** Operational Policing

**Subject:** 11/8 and 11/9 Ballymoughan Flute Band parade on 25 June 2011

### Request and Answer:

#### Question

I would like to request a copy of the 11/8 (post public procession return) and 11/9 (public procession report) form for the Ballymoughan flute band parade that took place in Magherafelt on 25/06/11. This information will be used to improve the event next year.

#### Answer

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- disclose information in response to your request on the page below numbered 1 subject to the deletion of information pursuant to the provisions of Section 38 and Section 40 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) by virtue of Section 40(3)(a)(i) – Personal Information

**Section 38 Health and Safety** is a prejudice based qualified 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 considerations for Section 38 is provided below:

### **Harm Test**

#### **Section 38**

Disclosure of the names of persons in various roles within PSNI could put these 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**

Releasing the information would promote openness and transparency. When information disclosed relates directly to the efficiency and effectiveness of the service or its officers; in this case when referring to how the PSNI deal with policing of parades, the proper allocation of resources is a matter that the Service should hold up to public scrutiny to enhance accountability and justification.

#### **Factors Favouring Retention**

Releasing the names of persons who work within the PSNI into the public domain would assist terrorist and criminal elements to carry out attacks on these persons.

Release of this information would be likely to place at risk the lives of officers and the public. This is because the detailed information in question would be useful to terrorists planning to carry out attacks on police, which have in the past been known to be indiscriminate in nature, therefore endangering unsuspecting bystanders in addition to the intended target.

#### **Decision**

I have determined that the release of names of personnel 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 and police premises. The Police Service will not disclose information that will put officers' lives at risk as the safety of individuals is of paramount importance.

**Section 40 Personal Information** is an absolute exemption which means there is no requirement on the Public Authority to consider whether there is a public interest in disclosure. This is so because personal data is governed by other law (The Data Protection Act 1998).

To answer your request would require me to release personal details about individuals other than the applicant. The names of police officers could be used in conjunction with other information which may already be in the public domain or which may become available in the future to compromise their security. The PSNI have a duty of care to ensure the safety of police officers. A release under the Freedom of Information Act is considered to be a release to the public at large. This would be a breach of the Data Protection Act and is catered for within Freedom of Information by the exemptions under Section 40(2) as outlined below.

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.

Members of staff are entitled to protection under the Data Protection Act 1998. The Service would be failing in its lawful duty were it to breach the Data Protection Act in order to furnish a disclosure under the Freedom of Information Act 2000. The Service has a duty to protect the personal data of all individuals. Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

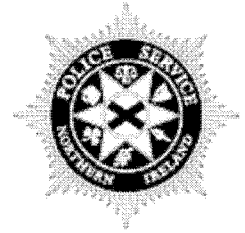
If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

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.



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**POST PUBLIC PROCESSION RETURN**  
FACSIMILE MESSAGE

To Police Service of Northern Ireland Parades Commission Liaison Officer

From Operational Planning Limavady

Fax 028 90561643

Pages This + 1

Phone 028 90700098

Date Fri 01/07/11

Re Post Procession Return in relation to: Ballymoughan Flute Band

Date, Time and Venue of Procession Sat 25/06/11 at 0845 hrs at Magherafelt

Organisation[s] involved Ballymoughan Flute Band

Was a determination by the Commission issued? Yes  No

Was there a protest meeting involved? Yes  No

Please give a brief résumé of the procession including numbers of bands and marchers, any disorder/breaches of codes of conduct by procession and/or protesters. [Please include any significant damage to property etc.]

This parade started at the agreed time, 2045 hours.

37 bands took part in the parade.

There was not any disorder nor was there any damage to property.

The parade terminated at approximately 2300 hours.

The parade organisers and marshals worked very closely with Police and the Bronze Commander for the parade.

Were any arrests effected? Yes  No

What were the arrests for? (please specify) \_\_\_\_\_ **s.F38**

**s.F40**

Are any follow up arrests planned? Yes  No  **s.F38(1)**

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

If prosecutions follow an update must be submitted in due course. **s.F38(1)(b)**

**s.F40(2)**

Contact Name [REDACTED] Rank Sergeant **s.F40(2)(a)**

Station Limavady Tel No [REDACTED] **s.F40(2)(b)**



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

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**PUBLIC PROCESSION REPORT**

<b>1</b>	<b>Report on</b>  (Name, Location and Date of Parade)	Ballymoughan Purple Guards flute band parade Magherafelt Saturday 25 <sup>th</sup> June 2011
<b>2</b>	<b>District</b>  (List affected Districts in order parade enters)	G District – Magherafelt
<b>3</b>	<b>Notified Parade Route</b>  (Set out the notified route highlighting variations specific to the parade if applicable. A map should be attached where possible.)	Moneymore Road, Queen Street, Market Street, Kirk Avenue, Queen's Avenue, Ballyronan Road, Fairhill, Aughrim Road, King Street, Church Street, Broad Street, Rainey Street, Westland Road.
<b>4</b>	<b>Recent Parading History</b>  (A factual synopsis of sensitive parades at this venue for last 2/3 years should be given. Where there has been significant disorder or protests in a particular area this should be quoted. Human rights implications of previous police strategies should be included. Great depth of detail is not required. Reference should be made to other evidence that is available – for example, video footage.)	Magherafelt is the largest town in this policing area.  There have not been any sensitive parades in Magherafelt town over recent years.  All parades in Magherafelt have passed off without any major problems.

<p><b>5</b></p>	<p><b>Compliance with The Codes of Conduct</b></p> <p>(The Parades Commission has issued a Code of Conduct for parade and protest organisers, copies of which have been distributed within the Police Service of Northern Ireland. Clear breaches of the Code on previous occasions should be included here.)</p>	<p>All parades in Magherafelt have complied with the Commission’s code of conduct.</p>
<p><b>6</b></p>	<p><b>Public Disorder or Damage to Property which has occurred previously</b></p> <p>(This part must include details of factors that the Parades Commission must take into account when making their determination. Actions which infringed the law by those parading or protesting, must be included under the two subheadings.)</p> <p>(Parades – the extent to which participants gave rise to the disorder or damage to property and the likelihood that the behaviour of participants directly caused or led to the disorder. Numbers of participants and details of arrests/prosecutions should be quoted.</p>	<p><b>(1) Parades</b></p> <p>There have been very little incidents of disorderly behaviour at parades in Magherafelt: the main policing problems are on street drinking and public indecency (urinating in public) offences.</p>
	<p>(Protests – the extent to which the protesters gave rise to the disorder or damage to property and the likelihood that the behaviour of protesters directly caused or led to the disorder. Numbers of protesters and details of arrests/prosecutions should be quoted.)</p>	<p><b>(2) Protests</b></p> <p>To date there have not been any planned protests in Magherafelt.</p>
<p><b>7</b></p>	<p><b>Community Impact Assessment</b></p> <p>Impacts within the community should cover the degree to which a parade or parades have already caused or might cause division between communities. Where pertinent historic reasons exist why a parade is sensitive and if relevant they should be included. Relevant tension indicators should be quoted.)</p>	<p><b>(1) Impacts of the procession on relationships within the community</b></p> <p>Parades in Magherafelt town are generally well received by all sections of the community.</p> <p>Police anticipate that there will be concerns / complaints in regard to the lateness of the finish time of this parade.</p>
	<p>(Disruption to the life of the community would include adverse effects the procession would cause to normal everyday life.)</p>	<p><b>2) Disruption to the life of the community</b></p> <p>Traffic control will be necessary for the duration of this parade. The size, extent, and duration of this event mean that there will be extensive disruption to the normal life of the community.</p> <p>Where ever possible residents/businesses will be facilitated.</p>

<p><b>Consider the Rights outlined below and make a judged assessment of how police strategies might affect the rights of individuals who may be affected.</b></p>	<p>(3) Human rights impacts of the parade or protest (and resultant police strategies)</p>
<p><b>Police use of Force</b></p> <p><b>Article 2 of the European Convention on Human Rights (incorporated into UK Law by the Human Rights Act 1998)</b></p> <p>Individuals' right to life</p> <p>Everyone's right to life shall be protected by law. Deprivation of life which results from the use of force which is no more than absolutely necessary for a specified purpose does not contravene this Article.</p> <p>Article 2, in general, concerns the use of lethal or potentially lethal force.</p> <p><b>Article 3 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>No one shall be subjected to torture or to inhuman or degrading treatment or punishment.</p> <p>Article 3, in general, concerns the use of non-lethal force. It also extends to police tactics in public order situations. Any use of force by the police must be no greater than is made necessary by the person's conduct. Non-lethal force used by the police must be no greater than reasonably necessary in the particular circumstances of the case.</p>	<p>Our policing strategy is for a significant policing operation, deploying traffic diversions, beats, and TSG serials. This is to ensure that individuals right to life are protected. In the event that opposing factions gather during the parade or an incident occurs, we will deploy personnel to prevent confrontation and maintain public safety in the town.</p> <p>This strategy will enable us to protect the lives of all individuals at these events. Police in this operation will use no more force than is absolutely necessary: - when defending anyone from unlawful violence; to affect a lawful arrest or prevent escape of lawful detainee; or in actions lawfully undertaken to quell a riot.</p> <p>No intelligence exists at this time to indicate a threat against this parade.</p> <p>The organiser is likely to comply with any determination by the commission.</p>
<p><b>Article 5 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>Individuals' right to liberty.</p> <p>This will cover issues such as detentions and arrests.</p> <p>It also covers the wider issues of restricting individual's freedom of movement by creating sterile zones etc.</p>	<p>The notified parade route is taking in both the commercial centre (generally closed at this time of day) of Magherafelt and housing developments. The Parade consists of an invitation to approximately 30 bands with 500+ numbers of spectators. Traffic will have to be controlled by diversions around the town for the duration of the event. With no notified counter demonstration, there is no plan to create sterile areas.</p>
<p><b>Article 8 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>Individuals' rights to respect for private and family life.</p> <p>Disallows interference by a public authority of this right except as is in accordance with the law and is necessary in the interests of national security, public safety, economic well being of the country, prevention of disorder and crime, protection of health and morals or the protection of rights and freedoms of others.</p>	<p>In respect of our strategy for this event, there is no interference by police envisaged with the exercise of this Article 8 right except in accordance with the law in the interest of public safety, for the prevention of disorder or crime or for the protection of the rights and freedoms of others.</p> <p>The notified parade route takes in both the commercial centre of Magherafelt and some surrounding housing developments.</p> <p>Police plan no restrictions on pedestrians.</p>

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<p><b>Article 9 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>Right to freedom of thought, conscience and religion.</p> <p>Gives individuals freedom to manifest religion in worship, teaching, practice and observance. Limitations prescribed by law only by interests of public safety, public order, health or morals or for protection of rights and freedoms of others.</p>	<p>In respect of our strategy for this event, there is no interference by police envisaged with the exercise of this Article 9 right subject only to such limitations as are prescribed by law and are necessary in the interests of public safety, for the protection of public order, or for the protection of the rights and freedom of others.</p> <p><b>This parade route should not interfere with those wishing to attend worship.</b></p>
<p><b>Article 10 of the European Convention on Human Rights (incorporated into UK Law by the Human Rights Act 1998)</b></p> <p>Right to freedom of expression.</p> <p>Freedom to hold opinions and to receive or impart information and ideas without interference by public authorities and regardless of frontiers. The exercise of these freedoms, since they carry duty and responsibility, may be limited as prescribed by law and necessary in a democratic society in the interests of national security, territorial integrity, public safety, prevention of disorder and crime, protection of health or morals, protection of the reputation or rights of others, preventing disclosure of confidential information or to maintain the authority and impartiality of judiciary.</p>	<p>In respect of our strategy for this event, there is no interference by police envisaged with the exercise of this Article 10 right (Freedom of Expression) subject to such formalities, conditions, restrictions or penalties prescribed by law in the interest of public safety or for the prevention of disorder or crime.</p> <p>There are to date no notified counter demonstrations and accordingly police have not impinged upon this right by imposing restrictions under the Public Order, Order 1997 in the interest of public safety.</p>
<p><b>Article 11 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>Right to freedom of assembly and association.</p> <p>Everyone has the right to freedom of <b>peaceful</b> assembly and association with others.</p> <p>Can only be restricted as prescribed by law and as are necessary in a democratic society in the interests of national security, public safety, prevention of disorder or crime, protection of health or morals or for the protection of the rights or freedoms of others. This shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, the police or the administration of the State.</p>	<p>Notification of a protest meeting is unlikely to be received against this parade. Evidence will be gathered in relation to any protests that have not legal notification. Our strategy recognises the right to freedom of peaceful assembly and association. In respect of this parade and any possible counter protests (that may occur) we identify that there is a balance to be struck between the competing and overlapping rights between parade participants and protesters. To achieve this balance, only sufficient restrictions will be imposed as are prescribed by law and are necessary in the interest of public safety, for the prevention of disorder or crime, or for the protection of the rights and freedoms of others.</p> <p>Such lawful restrictions on the parade and any counter protest (in the above context) are permitted under Article 11. Our strategy envisages a proportionality of restrictions on the competing rights of any such groups.</p>
<p><b>Article 14 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998)</b></p> <p>Prohibition of discrimination.</p> <p>All the rights and freedoms in the Convention shall be enjoyed without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, natural or social origin, association with a national minority, property, birth or other status.</p>	<p>In respect of our strategy for this event, there is no interference by police envisaged with Article 14 rights (Prohibition of Discrimination)</p> <p>Competing rights of marchers and protesters (if any) will be recognised and balanced by effective police deployment. It will be necessary to put in place, (1) traffic controls, (2) beats (3) TSG serials at key / interface locations, during this parade.</p>



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	<p>(This section should contain any other relevant information, which has been obtained through community contacts etc. A professional assessment of the value of such information must be given.)</p>	<p><b>(3) Human rights impact of the parade or protest (and resultant police strategies)</b></p> <p>This is an annual parade that is generally well marshalled by the host band.</p>
<p><b>8</b></p>	<p><b>Signature</b></p> <p>This report should be signed by the District Commander or if crossing police boundaries by the senior officer responsible.</p> <p><b>(Name, Location and Date of Parade)</b></p>	<p>Ballymoughan Purple Guards Flute Band Magherafelt Saturday 25<sup>th</sup> June 2011</p>