

Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-00975

Keyword: Operational Policing

Subject: Road Traffic Collision in Castlederg April 2003

Request and Answer:

Question 1

I was involved in a Road Traffic Accident at Monegal Road, Castlederg at 2.30pm on Sunday 6 April 2003. I was riding a motorcycle at the time and I collided with a sheep. I was seriously injured as a result of this accident and I am trying to pursue a civil claim against the owner of the sheep.

Police attended this accident at the time and I have since obtained a copy of the police report (reference number) into the accident via my solicitor who has also obtained a letter from Sergeant Stephen Rainey (police number) detailing his efforts made to establish the owner of the sheep. This letter refers to making enquiries with the Department of Agriculture into establishing ownership with ear tags. If I had the number of the ear tag from the sheep I collided with it would help me progress my civil action.

Can you tell me:

Did police obtain a tag number from this sheep as Stephen Rainey's letter and report would suggest they did to enable enquiries to be made with Department of Agriculture?

Question 2

If a tag number was obtained can I have the details of it to help with my civil claim?

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

Section 40(5) Personal Information

Section 30 is a class based and qualified exemption. This means that it is not necessary to consider the harm in confirming or denying the existence of the requested information but it is necessary to consider the public interest. This exemption applies because the requested information, if held would relate to an investigation by the PSNI into an alleged offence or offences.

Although Section 40 is a class based and absolute exemption, it is necessary to consider the public interest for the purposes of confirming or denying the existence of the requested information. This exemption applies because all releases under FOI are releases into the public domain and not just to an individual. The requested information, if held would relate to the individuals concerned. Simply to confirm the existence of the requested information would amount to a release of that personal information into the public domain, and this would be a breach of the Data Protection Act.

Public Interest Test

Section 30

Factors Favouring Confirmation or Denial

Confirming the existence of information would show that the PSNI conducted an investigation, which the public would expect.

Factors Against Confirmation or Denial

Confirming or denying the existence of the requested information in relation to this alleged incident may hinder the prevention and detection of crime as an investigation or the outcome of subsequent proceedings could be compromised.

Section 40

Factors Favouring Confirmation or Denial

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 accident is reported to the police service.

Factors Against Confirmation or Denial

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

At this time the potential harm to current and/or future investigations outweighs any public benefit in knowing if any information is, or is not held. Whilst there is a public interest in the transparency of how the police deal with accidents and providing assurance that the PSNI is appropriately and effectively dealing with incidents reported to it, there is also a strong public interest in maintaining confidence in the PSNI with regard to its handling of individuals' personal data. It is for these reasons that the public interest must favour neither confirming nor denying that the requested

information is held.

None of this however, should be taken as conclusive evidence that the information you requested exists or does not exist.

For your information I have attached a link below to a 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

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.