



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2011-00378

Keyword: Organisational Information/Governance

Subject: Requests audio copy of 999 call made

Request and Answer:

Question 1

I would like to obtain an audio copy of a 999 call I made on Saturday 5th February at approximately 9.05am and I would like to know if this would be possible.

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 (NCND) 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 exemption:

Section 40(5)(a) Personal Information

This exemption is engaged if the information requested constitutes personal data and the request is made by the data subject. The request should be made under Section 7 of the Data Protection Act 1998, rights of access.

A disclosure under the Freedom of Information is a release of information to the world in general and

not to an individual applicant. Therefore, simply confirming or not that such information were held would disclose personal information about an individual thereby breaching the Data Protection Act and could in itself disclose sensitive or damaging information.

Personal data if held by the police service should not be disclosed into the public domain and privacy must be respected. Any information released under the Freedom of Information Act in response to requests is deemed to **be released into the public domain**.

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

Public Interest Test

Factors Favouring Confirmation or Denial that the Information is Held

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 that the Information is Held

To confirm or deny that the requested information is held would amount to the processing of personal information in breach of the Data Protection Act and requests for such information should be made under that legislation.

Decision

Whilst there is a public interest in the transparency of day to day policing 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 individual's personal data. The PSNI should not process such personal data in breach of the Data Protection Act 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. The decision in this case therefore must favour the maintenance of the Neither confirm nor Deny stance by the PSNI.

However, this should not 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.psnj.police.uk

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