



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2013-04335

**Keyword:** Crime

**Subject:** Freddie Andrews Investigation

### Request and Answer:

#### Question

I would like to make a freedom of information request whether you are investigating the Freddie Andrews case. I could not find any information about it on your website. The crime log number should be 13\6452. Is this correct?

#### 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(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 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 Conducted By Public Authorities  
Section 31 (3) – Law Enforcement  
Section 40 (5) – Personal Information

Although Section 40 is an absolute, class based exemption, a Public Interest Test is required for the purpose of NCND. The release of information is not just released to an individual but it is the release of information into the public domain. Therefore to confirm that PSNI hold the requested information

would in fact amount to the release of it into the public domain of personal information about an individual. Individuals would have no expectation that their details would be released into the public domain, therefore their data protection rights would be breached by confirmation or denial that the information is held.

Personal data if held by a 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 30 is a qualified and class based exemption which means that a Public Interest Test is necessary.

Section 31 is a qualified and prejudice-based 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 and also conduct a Harm test.

A summary of the Harm and Public Interest considerations are outlined below.

### **Harm Test**

Disclosure of whether or not someone is being investigated is likely to cause operational harm and affect PSNI's ability to fulfil its law enforcement role. Divulging any information as to whether or not there is an investigation ongoing could make the person or persons aware that they were being investigated. Release of the information, if held, could inform any criminals who could then take steps to avoid detection thus impacting on the prevention and detection of crime and the apprehension of criminals by police.

### **Public Interest Test Section 30**

#### Factors Favouring Confirmation Or Denial

Confirming or denying information is held in relation to investigations would lead to a better informed public and a more accountable service. The public interest would be satisfied in knowing how public funds are being spent and that the PSNI is effectively dealing with crime.

#### Factors Against Confirmation Or Denial

Confirming or denying that the information you seek is held could prejudice any ongoing or future investigations and hinder the prevention and detection of crime. Whilst there is a public interest in providing assurance that the PSNI is appropriately and effectively dealing with crime, there is also a strong public interest in safeguarding the integrity of police investigations.

### **Public Interest Test Section 31**

#### Factors Favouring Confirmation Or Denial

By confirming or denying whether the PSNI are undertaking an investigation to apprehend or prosecute any offender would enable the public to see where public funds are being spent.

#### Factors Against Confirmation Or Denial

Confirming or denying whether this information is held may mean that present and future law enforcement investigations could be compromised which could hinder the prevention and detection of crime. More crime could be committed and individuals placed at risk as a result.

### **Public Interest Test Section 40**

#### Factors favouring Confirmation or Denial that other Information is held

Confirmation or denial of whether information is held by PSNI would provide the public with an awareness of what personal information is held.

### Factors against Confirmation or Denial that other Information is held

By confirming or denying that information is held has the potential to identify an individual; this would be a clear breach of 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 they would reasonably expect.

### Decision

The PSNI will not confirm or deny that information is held if to do so would adversely affect any ongoing or future investigations. Whilst there is a public interest in the transparency of policing operations there is a very strong public interest in safeguarding the integrity of police investigations and ensuring that individuals' personal data is not breached.

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](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.psni.police.uk](http://www.psni.police.uk)

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