



FREEDOM OF INFORMATION REQUEST



Request Number: F-2013-05367

Keyword: Organisational Information/Governance

Subject: Policy in Relation to Removal of Firearms

Request and Answer:

Question 1

Would you please provide me with the following information. A statement in respect of police policy in removing firearms from a private dwelling.

Question 2

Is the certificate holder permitted to handle these weapons if he is under arrest for an alleged offence.

Answer

This is to inform you that the Police Service of Northern Ireland has now completed its search for the information you requested. The decision has been taken to disclose the located information to you in full.

The following information is an extract from **Service Procedure SP10/07 – Domestic Abuse and the Possession of Firearms and Ammunition – Section 4, Legal Basis** and provides an overview of the legislation which impacts upon police action in seizing firearms, regardless of the nature of the crime.

“(1) The Human Rights Act (HRA) 1998 requires the Police Service of Northern Ireland (PSNI) as a public authority, to act in a manner that is compatible with Convention Rights. Article 2 of the European Convention on Human Rights (ECHR), as interpreted by the European Court of Human Rights, imposes certain positive obligations on States. One such obligation is to take all reasonable steps to protect a person from a real and immediate risk to their life, resulting from the criminal acts of an identifiable individual or individuals. Consequently, if a police officer believes that a person in possession of a firearm poses a real and immediate risk to life, any firearms should be seized. Other steps (e.g. arrest of the person posing the risk) may also be warranted.

(2) At common law, the police can take reasonable steps to prevent crime and maintain the peace and this could include the seizure of firearms.

(3) Statutory powers of search (with warrant) are contained in Article 52 of The Firearms (NI) Order 2004. In the vast majority of cases, the use of these powers will not be necessary. This should be read and used with other statutory powers in The Police and Criminal Evidence (PACE) Order. [See

Appendix 'A' for statutory powers of search and seizure provided by The Firearms (NI) Order 2004].

(4) Statutory powers of seizure are contained in Article 57 of The Firearms (NI) Order 2004. These powers are intentionally extensive and apply not only to criminal offences which have been committed but also to prevent the commission of an offence. It should be noted that, in respect of firearms held on FAC, The Firearms (NI) Order 2004 extends the power of seizure to include a breach of any of the provisions of the Order. It should be remembered, however, that the exercise of these powers does not preclude the police from removing any firearm(s) or ammunition with the consent of the authorised holder and as a matter of 'good police practice' this course of action should always be attempted rather than formal seizure.

(5) It should be noted that the seizure of firearms is not an irrevocable position. Even on a temporary basis it will allow a consideration of the circumstances and provide some guarantee of protection to victims and the public. Where, however, a firearm has been seized, it should not be returned to the FAC holder without the authority of the FEB”.

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.psnipolice.uk

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