



FREEDOM OF INFORMATION REQUEST



Request Number: F-2015-00925

Keyword: Operational Policing

Subject: Registered Sex Offender

Request and Answer:

Question

I have a question regarding the sex offenders register please. My mother in laws next door neighbour was in court this week and was put on the sex offenders register for making almost 2000 indecent images of children. The question is regarding the fact his house (he owns this house as the mortgage is paid) is beside a Primary school. Literally a thirty second walk with his garden overlooking the playground. Will a registered sex offender be allowed to live here with children in such close proximity or will he be forced to move home?

Clarification Sought

To enable the Police Service of Northern Ireland (PSNI) to meet your request could you please provide further clarification on the following - Please provide any further details you have of the Registered Sex Offender you are enquiring about i.e. name and address.

Clarification Received

The sex offenders name is XX. He lives next door to my in laws so it's either number XXXXX.

However while I am concerned with him living beside my in-laws (as my children visit) - he is right beside XXXXXXXXX Primary School, XXXXXXXXXX. I was wondering if this is allowed in such close proximity to children?

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 40(5)(b)(i) - Personal Information

Section 40(5) – Personal Information

The release of information under Freedom of Information is a release into the public domain, and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general. To confirm that the PSNI hold the requested information would in fact amount to a release into the public domain, of personal information about an individual. The individual would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Section 40 is an absolute class-based exemption and it is not necessary to carry out a public interest test in this case.

Decision

Confirmation or denial of whether the PSNI hold information of this nature would amount to a release of information whether on this occasion or on other occasions where a similar request is made. Whilst the PSNI would always wish to be transparent and accountable, no release under FOI should be made where an individual's data protection rights would be breached. Not only would this be a breach of Data Protection legislation by the PSNI, but it would also leave the PSNI open to action against it by any individual concerned.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

To assist you in regard to the general monitoring of Registered Sex Offenders please find below a link to the Public Protection Arrangements for Northern Ireland which explains the management of Registered Sex Offenders.

<http://www.publicprotectionni.com/>

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.