



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2015-03034

**Keyword:** Organisational Information/Governance

**Subject:** PSNI Auditing of IT Activity

### Request and Answer:

#### Question 1

What rank of officer has the right to authorise IT specialists to report on a student officer's computer log in details and activity undertaken on the computer, e.g. accessing police net, swipe card usage, and CCTV footage?

#### Answer

The IT audit team who produce computer logs request Chief Inspector authorisation before they proceed to report on student officers' computer log in details and computer activity. At login to every PSNI Common Terminal, the screen message reminds users of "NO EXPECTATION OF PRIVACY" and states "Supervisors will have full access to audit logs of all staff under their command". Data relating to swipe card usage and CCTV usage is not held in a central location within the Organisation and PSNI IT audit team do not report on activity relating to these records.

#### Question 2

How often in the past 5 years on a year by year basis has such authorisation been requested?

#### Question 3

How often in the past 5 years on a year by year basis has such authorisation been given and reasons why?

#### 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 in relation to Question 2 and 3 above.

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 – the duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1) or (2)

Section 30 is a class based qualified exemption which means that if the information was held it must fit into the class of information covered by this exemption, i.e., information held for the purposes of investigation to determine if an offence has been committed. I am satisfied that the information sought fits into this class of information.

The PSNI can neither confirm nor deny it holds any information in relation to the audit or monitoring of staff activities which it may have or have not conducted. Not only would this undermine any current investigations by alerting those who are potentially suspected of wrongdoing, it would disclose tactical options, potentially undermining future investigations.

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

#### Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when\\_to\\_refuse\\_to\\_confirm\\_or\\_deny\\_section\\_1\\_foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

#### **Public Interest Test**

##### Section 30 (3) - Investigations - Factors Favouring Confirmation or Denial

It would be in the public interest to ensure that PSNI are taking appropriate action in carrying out their functions. Releasing information would promote public trust in providing transparency, and demonstrating openness and accountability. Releasing police information would reassure the public that police were exercising their duties effectively and efficiently by investigating staff potentially engaged in misconduct or criminal activity.

##### Section 30 (3) - Investigations - Factors Against Confirmation or Denial Information is held

An investigation if unknown could be compromised and it could hinder the prevention or detection of crime. The PSNI rely on effective flow of information and evidence to carry out its core functions. The

ability of PSNI to successfully carry out investigations and progress enquiries would be hindered, as any assurance provided to individuals that information they provide is treated in confidence would be undermined. As a consequence the success of current and future investigations would be compromised.

The public may lose confidence in the ability of the PSNI to bring offenders to justice, and this will have a negative impact on the prosecution process

### Decision

The PSNI seek to promote accountability and openness with the community it serves, and to encourage effective communication and engagement with the public. This is the strongest argument for the release of the requested information.

Irrespective of whether or not the information is held, the Police Service of Northern Ireland will never disclose information which could identify investigative activity and therefore undermine their investigations, subsequently hindering the prevention or detection of crime and outweighing any public benefit in knowing if information regarding is, or is not held.

There is no tangible community benefit in complying with Section 1(1)(a) of the Act at this time, therefore exemptions Section 30(3) is engaged resulting in the non-disclosure of the information sought.

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.