



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-00358

Keyword: Complaints/Discipline

Subject: Murder Of Sergeant Gordon Wilson

Request and Answer:

Request

Freedom of Information Request under the Freedom of Information Act 2000 (case of Sergeant Gordon Wilson murdered on 21 February 1983)

I am writing to you on behalf of Mrs Florence Graham and Mr Samuel Wilson in relation to the case of their brother, Sergeant Gordon Wilson, who was murdered by the Provisional IRA when they detonated a bomb at Lower English Street in Armagh, on 21 February 1983. Please find attached the Consent Forms signed by both Mrs Graham and Mr Wilson authorising the Advocacy Service of the Ulster Human Rights Watch to act as their representative in dealing with the Police Service of Northern Ireland.

It was revealed that Inspector Pickering and Constable Beattie, who were duly informed by the Army that the area including Lower English Street was placed out-of-bounds, failed to communicate this information to the police patrols. If they had done, Gordon Wilson would not have gone to the place where he was murdered. The Historical Enquiries Team Summary Report indicates that civil proceedings for negligence were instigated by Gordon Wilson's widow, Mrs Pat Wilson (today Mrs Pat Scott), against the RUC following the murder of her husband. As a result she received an out-of-court cash settlement from the RUC.

Mrs Graham and Mr Wilson would like to know if the RUC ever conducted an internal investigation into the failures of Inspector Pickering and Constable Beattie as a result of the complaint made by Mrs Pat Wilson (Scott).

Under the Freedom of Information Act 2000, could you therefore kindly inform us as to whether the Police Service of Northern Ireland holds any information concerning an internal investigation that would have been carried out by the RUC concerning Inspector Pickering and Constable Beattie, following the murder of Gordon Wilson, and the outcome of any such investigation.

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

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website 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

Section 30 is a qualified and class-based exemption and the legislators have determined that is it only necessary to carry out a Public Interest Test. Evidence of Harm is not required.

Public Interest Considerations

Section 30

Factors favouring confirmation or denial for Section 30

Confirming or denying that information exists relevant to this request would increase transparency, lead to a better informed public improving their knowledge and understanding of the practices and procedures of the Police Service.

Factors against confirmation or denial for Section 30

Confirmation or denial that information is held could prejudice any potentially ongoing or future investigations carried out by the PSNI or the Police Ombudsman. To confirm or deny what information is held in relation to this subject would therefore hinder investigative capabilities, could identify investigative activity, and therefore undermine such investigations.

Balance Test

The Police Service will not divulge whether information is or is not held if to do so could undermine any potentially ongoing or future investigations. Whilst there is a public interest in the transparency of policing activity, there is a very strong public interest in safeguarding the integrity of police investigations. Therefore it is our opinion that for these issues the balancing test for confirming or denying whether any other information relevant to your request exists is not made.

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.

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.