



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-01943

Keyword: Organisational Information/Governance

Subject: Estates Branch Registration with Land Registry

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland does hold information to which your request relates. The decision has been taken not to supply some of the information you have requested under Section 38 (Health and Safety) of the FOI Act and the reason for this set out in more detail below. We have also provided you with links to guidance issued by the Information Commissioner's Office which we have followed in responding to your request.

This request relates to lands to the south side of Prince William Road, Lisburn.

Request 1

Why was the RUC Estates Branch (REB) interest / estate never registered with Land Registry?

Answer

The Police Authority for Northern Ireland by virtue of the Police (Northern Ireland) Act 1970 purchased the lands at Prince William Road, Lisburn on 11th June 1980. The title provided was a leasehold title. We hold no information as to why it was not registered at this time.

Request 2

Do REB or their successors in title still own or have an estate/interest in this land and if not, under what terms/date and to whom was REB estate/interest disposed?"

Answer

This land was declared surplus and was sold on 31/7/13 to three limited companies. Northern Ireland Policing Board no longer retain any interest in said land.

Section 17(1) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

The exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 38 (1) (a) (b) Health & Safety – endanger the physical or mental health of an individual or endanger the safety of an individual.

We have explained below in our response why this exemption is engaged and the full text of this exemption 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.

Section 38 is a prejudice based qualified exemption which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

Harm

Request number 2 of this FOI request asks for the identification of businesses whom the land was sold to. In order to provide for the safety of individuals working for these companies the PSNI will not put this information into the public domain through a FOI response. Consequently Section 38 is being applied

Section 38 provides an exemption from disclosing information if such a disclosure would endanger ANY individual. It is our view that it is wide enough to include those staff members of these companies.

It is our view (and that of the Information Commissioner) that in order to demonstrate a danger to mental health under Section 38, clinical evidence of a psychiatric condition is not necessary. This has been confirmed by the Information Tribunal which in the PETA case (PETA v Information Commissioner & University of Oxford EA/2009/0076). It also explained however that the effect of the disclosure upon any individual's mental health must "go beyond stress or worry". It is considered that releasing the information could also jeopardise the physical and mental wellbeing of the family members of the deceased in relation to this case.

Public Interest Test

Factors favouring Disclosure

Public safety is of paramount importance to the PSNI and must always be considered so that the PSNI's ability to fulfil its core function of law enforcement is protected. PSNI would not wish to endanger the health and safety of any individual.

Factors against Disclosure

The PSNI would not wish to cause distress to the staff of the commercial business to whom the land was sold to.

Decision

Given the SEVERE threat level of terrorism in Northern Ireland the safety of staff of businesses who have had commercial interaction with the PSNI is paramount and consequently PSNI will not identify business names through an FOI response, which if it did so, may endanger the health and safety of individuals

The release of information under FOI 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 how the information is shared with other individuals therefore a disclosure under FOI is considered a release to the world in general.

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.psni.police.uk

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