



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-01311

Keyword: Organisational Information/Governance

Subject: Erecting Flags

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 and the decision has been taken to disclose the following.

Request 1

Please detail if the PSNI have the legal power to stop, detain or otherwise prevent any person or persons from erecting flags on lampposts.

Answer

A range of legislation may apply depending on the content of the flag and the circumstances in which it is being erected.

Request 2

Please advise which legislation police would use (if any) to stop, detain or prevent any person or persons erecting flags on lampposts.

Answer

The legislation is not specific to flags; however, depending on the flag and the circumstances in which it is being erected, there may be offences under Section 12 (inviting support for proscribed organisations) and Section 13 (displaying articles) of the Terrorism Act 2000. Other legislation which could be considered depending on the circumstances may include the Protection from Harassment Order (1997), and Breach of the Peace (Common Law).

Request 3

Please detail which flags the PSNI would consider "Illegal?"

Answer

The Freedom of Information Act 2000 legislates for the rights of an individual to seek access to **recorded information**. The Act only extends to requests for **recorded information** as defined by Section 84 of the Act and does not require public authorities to answer questions, speculate or create information to answer an FOI request. PSNI are under no obligation to respond to this request as the Freedom of Information Act requires PSNI to consider requests for recorded information.

Further information on what constitutes a valid request can be found on the Information

Commissioner's Office website:

<https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

Your question above therefore is not a valid request, as PSNI does not hold information on the speculative element.

On this occasion I can advise you that PSNI will consider the circumstances of each flag prior to making an assessment as to whether or not a criminal offence is suspected.

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.