



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-02247

Keyword: Organisational Information/Governance

Subject: PSNI Aircraft

Request and Answer:

In relation to request no F-2018-02247 Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

Request

My question is this is there any situations that any of the Police air fleet will show up on flight radar? I fully understand the sensitivity of showing where the air fleet is but as a person who likes to watch flight radar I would like to be able to see our PSNI air fleet in the air on flight radar. I do understand that at times the air craft need to be invisible for operational reasons. But again it would be nice to see them on flight radar.

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 31(3) Law Enforcement - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would or would be likely to, prejudice any of the matters mentioned in subsection (1).

Sections 31 is prejudice based and qualified exemptions, which means there is a requirement to articulate the harm caused by confirming or denying that the information is held as well as carrying out a public interest test.

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)

Section 1(1) (a) of the Freedom of Information Act requires a public authority to inform a requester whether it holds information specified in the request. This is known as the '*duty to confirm or deny*'. In most cases, a public authority will be able to comply with its duty to confirm or deny under section 1 (1) (a) – in other words, it will be able to respond to a request by at least informing the requester whether or not it holds the information. In most cases where information is held, a public authority will go on to consider whether information should be provided under section 1 (1) (b) or whether it is subject to an exemption in Part II of the Act. However 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. This is called a '*neither confirm nor deny*' response.

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

PSNI consider the following 'NCND' provisions apply for the reasons outlined below:

Harm for the NCND – Section 31

Release of information relating to PSNI air fleet in this instance could be of potential benefit to criminals and/or terrorists. This could therefore both directly and indirectly impact on the prevention and detection of crime, the apprehension of criminals and increase the fear of crime in the community the Police Service seeks to serve.

Public Interest Test

Factors Favouring Confirming or Denying that the Information is held - Section 31

Confirming or denying the presence of PSNI air fleet on flight radar in this specific area would enhance the transparency and accountability of the service. This would enable the public to have a better understanding of effectiveness of police.

Factors Against Confirming or Denying that the Information is held - Section 31

To confirm or deny the existence of PSNI air fleet on flight radar would aid criminal elements to evade police. This would compromise the law enforcement role of police, hindering the prevention and detection of crime.

Decision

The Police Service will not divulge whether information is or is not held as to do so would

compromise the law enforcement role of the police and compromise future operations. As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. There is a very strong public interest in safeguarding the integrity of police tactics.

Taking all these factors into consideration, I am satisfied that the exemptions outlined above are applicable to this request. It is for these reasons that the public interest must favour neither confirming nor denying that the requested information is held.

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.