

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-00179

Keyword: Operational Policing

Subject: Reason for PSNI Visits for Specific Property

Request and Answer:

In relation to your request the Police Service of Northern Ireland is providing a Neither Confirm Nor Deny (NCND) response and by virtue of Section 40 and Section 38 of the Freedom of Information Act 2000 (FOIA) and are neither confirming nor denying whether we do or do not hold the information you seek. We will explain how the exemptions we are relying upon operate in our response below.

Request

I have rented out my property at (Address provided) to (Name supplied) and (Named supplied) since July 2020.

Friends and neighbours in (Area provided) have told me that they believe to the PSNI in attendance at my property over the past 18 months and as such I would like to know, if this is indeed the case, the reason for any visits.

Answers

In accordance with the Act, this letter represents a Refusal Notice for your 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 40 (5B)(a)(i) – Personal Information - the duty to confirm or deny does not arise if to do so would contravene any of the data protection principles.

Section 38 (2) – Health & Safety - the duty to confirm or deny does not arise if, or to the extent that, compliance with Section 1 (1)(a) would or would likely endanger the safety of an individual.

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.

Section 40 is a Class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure nor is it necessary to carry out a public interest test in this case.

Section 38 is a prejudice-based, qualified exemption which means the public authority must demonstrate the harm in confirming or denying that the information exists and carry out a public interest test.

‘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)

Section 40(5B)(a)(i) - Personal Information

The release of information under Freedom of Information (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 who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

To confirm or deny that PSNI hold or do not hold information would in fact confirm information about an individual. This would amount to a release into the public domain of personal information about an individual and likely to cause distress. The individual would have no expectation that these details would be released into the public domain; therefore PSNI would breach its data protection obligations and be unfair to individuals.

However, this response should not be taken as evidence that the information you requested is held or not.

Section 38 (2) – Health & Safety

Harm

To confirm or deny that the information requested is held may endanger the safety of any persons at

the named address.

Public Interest Test

Factors Favouring Confirmation or Denial

Confirmation or denial of the existence of the information would allow for better informed public awareness and debate and would assist the public in understanding the nature of policing interventions at specific locations.

Factors Against Confirmation or Denial

Confirmation or denial of this information would create a significant risk to residents at this address.

Decision

Whilst the PSNI would always wish to be transparent and accountable, no release under FOI should be made where an individual's data protection rights would be breached. Not only would this be a breach of Data Protection legislation by the PSNI, but it would also leave the PSNI open to action against it by any individuals concerned.

In addition, the PSNI will not confirm or deny the existence of any information if this would be likely to endanger the physical or mental health of any individual or the safety of any individual. The Public Interest therefore 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 Corporate Information Branch, 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 Corporate Information Branch, 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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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.