



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-00502

Keyword: Road Policing

Subject: Speed Calibration Operative

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 some information to which your request relates and this is being provided to you. We further consider the information you seek in request numbers 1, 2, 3 and 4 are exempt by virtue of sections 31 and 40 of FOIA and have detailed our rationale as to why this exemption applies. 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.

Previous FOI - F-2020-02305 refers.

Request 1

The certificate to prove the operative was suitably qualified for the task

Answer

See attached redacted operators certificate.

Request 2

Was the speed camera operative trained in the last year?

Answer

No, the operator was trained in April 2018.

Request 3

What was the date of the operative's last training?

Answer

16 April 2018.

Request 4

Record of daily inspection carried out on the speed camera for the date 04/10/20

Answer

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 31 (1) – Law Enforcement (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

Section 40(2)(a)(b) by virtue of Section 40(3)(A)(a) – Personal Information - Information constitutes personal data and disclosure would contravene any of the Data Protection principles

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 (2) of the FOIA is an absolute exemption which means there is no requirement on PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA') Third party personal information constitutes 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. I have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As this information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed in a lawful and fair manner. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and PSNI has made the decision to withhold that information.

Section 31 is a qualified and prejudice-based exemption. This means that the legislators have determined that it is necessary to evidence the harm in release and to conduct a public interest test.

Harm for Section 31

Divulging operator's names and company information could put these individuals and company at risk. It could affect the PSNI's relationship with these operators and company.

It could have an impacting directly and indirectly on the prevention and detection of crime which could result in a member of the public's safety.

Factors favouring release - Section 31

Release of this information could inform how the public money is spent and provides an insight into the PSNI's use of law enforcement. The PSNI must be accountable for their procedures. The public would be better informed about the use of speed detection equipment.

Factors favouring retention - Section 31

The PSNI has a duty to fulfil its law enforcement function and whilst there is a public interest in the transparency of policing activities and the appropriateness of how public funds are allocated, in the detection of speed, the delivery of effective law enforcement has overriding importance.

Disclosure of any details about of speed camera operators could put them at harms risk. Thus the use of this information may be of particular concern in light of the nature and extent of the prevailing threat. It may also be used by those who may have criminal intent if they became aware of such details in combination with other information they have gathered to try and prejudice law enforcement

Decision

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The PSNI will not divulge information if to do so would adversely affect the role of the PSNI. Whilst there is a public interest in the transparency of the law enforcement role of the Police Service and providing assurance that the PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of the police service. The PSNI has a duty to fulfil its law enforcement role and whilst there is a public interest in the transparency of policing activities and the appropriateness of how public funds are allocated, in Policing, the delivery of effective law enforcement is a priority.

The release of information under the Freedom of Information Act 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.

It would therefore not be in the public interest to release information which would in turn impact on police resources and lead to more crime being committed, placing individuals at risk and an investigation or the outcome of subsequent proceedings could be compromised.

Consequently it is in the public interest to withhold some of the information you seek.

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 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.