



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2020-01263

**Keyword:** Organisational Information/Governance

**Subject:** Policing at a Funeral

### 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 this is being provided to you. We further consider the information you seek in request number 3 is exempt by virtue of Sections 31, 38 and 40 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.

### Request 1

Bobby Storey funeral. Who was in overall charge of the policing operation on the day and a timeline of the events?

### Answer

Assistant Chief Constable Alan Todd.

### Request 2

On what date did any officer first have contact with either Sinn Fein or Belfast city council prior to Mr Storey's funeral?

### Answer

22<sup>nd</sup> June 2020.

### Request 3

All correspondence between the PSNI and Sinn Fein or Belfast city council in relation to Mr Storey's funeral?

### 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 exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

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

Section 31(1)(a)(b – Law Enforcement – Information which would be likely to prejudice (a) the prevention or detection of crime.

Section 38 (1)(b) – Health & Safety – Information is exempt information if its disclosure under this Act would, or would be likely to (b) endanger the safety of any individual.

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://www.ico.org.uk).

## **Section 40 (2)**

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, PSNI must however consider if information can be released into the public domain. Section 40 is an interface exemption which means we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA'). Within the material requested is details of individuals (including officers and staff and persons outside the organisation that PSNI has consulted with who can be identified from this material). This information is the 'personal data' of those individuals as defined under Data Protection legislation.

PSNI must consider whether disclosure therefore 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 'fairly and lawfully'. 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 into the public domain. 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(1) Law Enforcement - Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

Section 38 (1)(b) is a prejudiced based, qualified exemption which means the PSNI must demonstrate harm in disclosure and consider the balance of the public interest in releasing the information.

## **Harm**

PSNI considers release of material which relates to police use of tactics and equipment and reveals policing methodology would educate criminals in policing methods and would assist in weakening policing mechanisms, compromising the law enforcement role of police. A disclosure under FOI is considered a release to the world in general and not just to the applicant 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. PSNI also considers disclosures of e-mail addresses and phone

numbers of police officers and staff which are not in the public domain and sit outside published contact points could compromise the PSNI's law enforcement abilities by creating a possibility that the public would not use the appropriate contact channels which are manned 24 hours a day for the public. This could mean that police officers and staff would be engaged in answering calls and individuals being placed at risk by important calls and information not getting through appropriate and established channels.

Releasing correspondence of those that have a working environment involving PSNI would likely place them at risk of attack. The threat level from terrorism in Northern Ireland is currently assessed as Severe so the release of any information that could be of use to criminals and terrorists increases the risk of harm to the public.

#### Factors Favouring Release - Section 31

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve and there is a public interest in the transparency and effectiveness of the tactics used to achieve this. Release of the information may reassure the public that PSNI are effective in this area.

#### Factors Favouring Retention - Section 31

Disclosure of this information could compromise the tactics and PSNI's law enforcement abilities that are used to prevent and detect crime and apprehend offenders which could potentially lead to more crime being committed and individuals being placed at risk. There is a strong public interest in the PSNI being able to protect investigations and details of this nature may be used by those involved in criminal activities in combination with other information they have gathered to try and evade detection. Neither will it be in the public interest for PSNI to tie up its resources or provide a means for individuals to hinder policing resource by bombarding the communications systems with emails and telephone calls.

#### Factors Favouring Release - Section 38

PSNI considers the public interest factors favouring release in this case are generic. It could lead to the public being better informed and could show transparency and accountability within PSNI.

#### Factors Favouring Retention – Section 38

To release details may place and endanger these individuals and put them at risk and is not in the public interest. The detailed information would be useful to terrorists who may wish to carry out an attack, which have in the past been known to be indiscriminate in nature, therefore endangering members of the general public in addition to their intended target.

### **Decision**

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 release to the world in general, not just to the individual requesting the information.

The Police Service will not disclose information that may put individuals' lives at risk as their safety is of paramount importance. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities they serve, therefore not disclose information that may jeopardise these important functions. Security is of paramount importance and PSNI will not divulge information if to do so would place the safety of an individual at risk. Release of this information has the potential to advantage terrorists and compromise the law enforcement role of police. Whilst the PSNI would always wish to be transparent and accountable, there is a very strong interest in protecting police officers and safeguarding police methodology.

PSNI remains under SEVERE threat and disclosure of the information has the potential to assist those intent in a carrying out attacks on those perceived as being associated with the PSNI.

The PSNI considers that the factors favouring withholding the information are stronger than those in

favour of disclosing the requested information. PSNI must ensure that law enforcement is not adversely affected by the release of material which reveals its operational methodology or use of tactics. It is acknowledged that wherever possible policing must be transparent and accountable.

However, police need to make balanced judgements which justify why some information needs to remain exempt and unpublished. We have therefore determined that the release of the information you seek in relation to request number 3 into the public domain would not be in the public interest.

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](mailto: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](http://www.psni.police.uk)

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