

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2020-01604

**Keyword:** Operational Policing

**Subject:** Noah Donohoe

### Request and Answer:

Your request for information below has now been considered. In respect of Section 1(1)(a) of the Freedom of Information Act 2000 (FOIA) we can confirm that the Police Service of Northern Ireland does hold the information you have requested however it is estimated that the cost of complying with your request for information would exceed the “appropriate costs limit” under Section 12(1) of the Freedom of Information Act 2000. We have explained to you below that when PSNI estimates whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if certain conditions are met. In this case those conditions are met and complying with all of your requests would in our estimation exceed that appropriate limit set out in Regulation. We have explained this further below but also we followed the Information Commissioner’s Office guidance ‘*Requests where the cost of compliance exceeds the appropriate limit*’ in relation to this request, which also provides further detail on the application of section 12 (1) of the FOIA. This guidance is available on the ICO website at the following link:

[https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

You requested the following information from PSNI:

Clarification from request F-2020-01511

### Clarification to requester

Re Request 1 can you please define who you consider to come under the definition “expert” personnel?

### Clarification from requester

By definition of “Expert” I refer to those with “a specialist knowledge and or qualification deemed ‘suitable’ and apt for the circumstances” e.g. a Forensic Psychologist or for example, an Officer with a track record of producing effective results in prior such cases (like if someone from Soham Murders case of Holly Wells and Jessica Chapman were to be consulted and deployed in the Noah Donohoe case).

### Request 1

Can you confirm in total how many Officers and “expert” personnel are being deployed in currently investigating the Noah Donohoe case? And the titles and lines of expertise of such staff (while

protecting their identities)?

**Request 2**

Can you confirm if and when the expert opinion of a Forensic Psychologist was or has been sought thus far or at any point at all in this case?

**Request 3**

Can you please provide me with all and any details concerning the apparent “community consultation” your organisation alleged it had within the vicinity in which Noah went missing and was found dead?

**Request 4**

Can you please explain why you refused to provide the leaflet concerning the above to his mother, Fiona Donohoe, when she has a right to this under Freedom of Information legislation given that it was about the strange disappearance and death of her son?

**Request 5**

Can you please provide me with a copy of the same leaflet under the Freedom of Information Act (2000)? If you should refuse this, outline why in detail.

**Request 6**

Can you confirm if Police from any other jurisdictions have been consulted or deployed in this investigation? If so, please outline precedent cases they have worked on which would make them suitably qualified.

**Request 7**

Can you explain why you have yet to mandatorily warrant by law any and all relevant CCTV footage within the vicinity whereby Noah disappeared and died?

**Request 8**

Have you questioned or arrested anyone yet in connection with Noah’s disappearance and death? I am not requesting their identity, simply an answer as to how many people you have or have not questioned or arrested, if any at all.

**Request 9**

Do you believe it appropriate or reassuring to the public to refuse requests for information via use of antiquated legislation surrounding so-called “Official Secrets” in a case involving the disappearance and death of a child?

**Request 10**

Has the Minister of Justice conveyed any concerns at all to your organisation regarding this case? Yes or no.

**Request 11**

How many Freedom of Information Requests have you received and responded to regarding this case?

**Request 12**

Have any MLA’s or MP’s contacted you to express concerns regarding your transparency, or lack thereof, regarding this case?

**Request 13**

Have you any informants within the locality of Noah’s death and disappearance who may be able to shed some light on what happened to him? Yes or no.

**Request 14**

Can you please provide the name(s) of the most Senior Officers investigating this case to present for purposes of reporting them to the Police Ombudsman's Office?

**Request 15**

Why did your organisation claim that they suspected "no foul play" in Noah's death prior to an autopsy and sufficient medical examination being carried out by someone professionally qualified? Can you confirm in detail if you would agree that this was a potential case of Misconduct in Public Office by way of fraud in doing so when the Officer who made the statement to the world media was not medically qualified?

**Request 16**

Is anyone under surveillance regarding this disappearance and death? Yes or no. I am not asking for their identity merely a clarification.

**Request 17**

Are you aware that your actions and inactions regarding this matter have greatly eroded trust and respect in policing among not just the Catholic/Nationalist community particularly but wider public, who feel you are either overlooking information or concealing it? If so, what is your response to this most serious collapse in confidence?

**Request 18**

In total, how many calls have you received so far concerning this case? I am asking for a figure.

**Request 19**

Are you aware that substantial numbers of people in the general public feel you may use the issue of COVID-19 and emergency legislation to avoid pursuing this case robustly to a conclusion? And what measures do you intend to take to reassure them that this is not the case given the enormous importance placed in securing answers and accountability for the Donohoe family and wider public?

**Request 20**

Can you clarify if and which other security service agencies you have liaised with throughout this investigation?

**Request 21**

Will your organisation consider holding several community consultations with citizens of North Belfast who are from both the Catholic and Protestant Communities in suitable venues, so that they may raise their concerns and have these documented?

**Request 22**

Are you actually even pursuing the Noah Donohoe case as a live murder investigation? Have you ruled murder out as a potentiality?

**Request 23**

How many door-to-door searches have you conducted in search of Noah's missing belongings in total?

**Request 24**

Do you suspect any paramilitary involvement in this case, in any sense at all, so far?

**Request 25**

Have any finger prints and other tests been conducted so far on Noah's belongings and clothing, including the storm-drain area whereby his body was recovered from?

**Request 26**

Has any explanation yet been reached with the Department of Infrastructure as to how a child of

Noah's height and weight could even access this storm-drain when a nearby resident claimed her own daughters of a younger age and smaller size could not do so?

### **Request 27**

Has the PSNI ruled out any element of a "hate crime" in this case?

### **Answer**

Section 17(5) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the cost of compliance exceeds the appropriate limit) to provide you the applicant with a notice which states that fact.

It is estimated that the cost of complying with your request for information would exceed the "appropriate costs limit" under Section 12(1) of the Freedom of Information Act 2000. Section 12 of FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to either comply with the request in its entirety or confirm or deny whether the requested information is held. The estimate must be reasonable in the circumstances of the case. The 'appropriate limit' is currently £600 for central government and £450 for all other public authorities including PSNI. The relevant Regulations which define the appropriate limit for section 12 purposes are The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244. These are known as the 'Fees Regulations' for brevity.

Regulation 4(3) of the Fees Regulations states that a public authority can take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:

- (i) determining whether the information is held;
- (ii) locating the information, or a document containing it;
- (iii) retrieving the information, or a document containing it; and
- (iv) extracting the information from a document containing it.

Under those regulations PSNI can calculate the time spent on each of these permitted activities at £25 per hour (thus if the activity(s) takes more than 18 hours PSNI will be in excess of the 'appropriate limit').

When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in Regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
- made for the same or similar information; and
- received by the public authority within any period of 60 consecutive working days.

Regulation 5(2) of the Fees Regulations requires that the requests which are to be aggregated relate "to any extent" to the same or similar information. In this case PSNI considers your requests meet this requirement.

PSNI therefore considered all of your requests in order to determine the scope of the search criteria now required in order to locate and retrieve the information you seek. Whilst we have set out further detail in the section below in relation to advice and assistance as to what constitutes a valid request under the FOIA, PSNI considered the likely length of time it would take to search its records to determine if we hold the recorded information you seek. PSNI can advise that cumulatively locating all of the information sought in all valid requests would take PSNI over 18 hours. Taking request number 12 alone, in order to determine if PSNI holds information from MLAs and MPs writing to

PSNI about this PSNI would need to consider all of the points where information could be sent to PSNI. This could include to the investigation team directly, to PSNI's Command Secretariat, PSNI Corporate Communications Department or through other multiple points of entry across the PSNI estate to see if MPs or MLAs have contacted PSNI. This is likely to require a search of many thousands of records and would take well in excess of 18 hours.

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice, and the request has therefore been closed.

### **Advice and Assistance**

Under Section 16 of the FOIA PSNI will always try to assist you to refine your request and provide advice where we can. In this case PSNI is aware of the request from the Coroner Joe McCrisken who is currently presiding over the inquest to end reporting and speculation in social media and other mediums about this matter. This matter is now under the jurisdiction of the Coroners Court and PSNI will adhere to the directions of the Coroner.

Given this direction and the fact the matter is live PSNI is not in a position to provide advice on how to refine your requests which are seeking information directly about the detail of this case. As this matter is not concluded PSNI can advise that much of what you are seeking would be exempt under law enforcement exemptions in the FOIA as well as the exemption at Section 30 of the FOIA which protects *investigations And Proceedings Conducted By Public Authorities*.

Some of the questions you ask us are not valid requests. Under the FOIA PSNI is under an obligation to consider requests (or questions) which seek recorded information. We do not have to speculate on matters or provide opinions. We are highlighting guidance available on the Information Commissioner's Office website about recognising a valid request under the FOIA which may be of help to you and is followed by us in relation to the handling of requests. The ICO guidance is helpful in considering how to frame requests and is followed by PSNI:

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

In relation to your request number 11 PSNI can provide to you how many FOI requests we have received within the 'appropriate limits' of the FOIA. Please let us know if you wish us to forward this to you

If you have any queries regarding your request or this 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.