

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-02187

Keyword: Operational Policing

Subject: Information that led to Searching of Address Provided

Request and Answer:

In relation to these requests, the Police Service of Northern Ireland (PSNI) is providing a Neither Confirm nor Deny (NCND) response. This means we can neither confirm nor deny that we hold the information you have requested. We will explain how the exemption we are relying upon operates in our response below.

Request 1

We request all information leading to the search of the below premises on Wednesday Date provided.

Address Provided.

Now that this investigation has been closed with zero findings, concluding that the information the PSNI acted on was incorrect, we believe it is in our interest and the interests of the general public, to disclose all information relating to this investigation, in the information resulting in the warrant being obtained, the searches and the investigations as a result of the searches.

We were very shocked that on previous request nothing was disclosed, but now that all investigations have been closed we believe there must be more information obtainable.

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 30(3) Investigations and Proceedings Conducted by a Public Authority – confirmation or denial would likely prejudice investigations and proceedings conducted by a public authority.

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 40 is a class based exemption therefore it is not necessary to carry out a public interest test.

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying the information exists is the appropriate response.

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)

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

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 the PSNI hold or do not hold the requested information would in fact confirm information about an individual including the fact it may or may not be held. This would amount to a release into the public domain of personal information about an individual. The individual would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Where Section 30(3) applies, PSNI neither confirm nor deny it holds information relating to investigations or proceedings, this is subject to a public interest test. The ability to neither confirm nor deny, can only be maintained in the public interest if confirmation or denial would interfere with the effective conduct of the investigations or proceedings.

Public Interest

Section 30 - Factors Favouring Confirmation or Denial

There is a public interest in the transparency of policing operations and to provide assurance that the PSNI is appropriately and effectively dealing with crime. Confirming or denying that information exists relevant to this request would lead to a better informed public demonstrating that PSNI undertake evidence gathering appropriately and in line with current legislation in order to assist criminal investigations.

Section 30 - Factors Against Confirmation or Denial

Confirmation or denial would highlight that police resources are being utilised to focus on specific areas of criminal activity. Whilst there is a public interest in the transparency of policing operations and providing assurance that PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations and operations and in maintaining confidence in the Police Service.

PSNI considers the information you have requested is exempt by virtue of Neither confirm nor deny exemptions which PSNI is entitled to rely upon.

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 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.