

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-02338

Keyword: Organisational Information/Governance

Subject: SIO Review Report

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act we can confirm that the Police Service of Northern Ireland does hold information to which your request relates. The decision has been taken not to supply the information you have requested pursuant to S30 of the FOIA and the reasons for this are set out in more detail below. 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

We would ask that you now provide us with a copy of the SIO report prepared by the HET. It is our contention that such disclosure is required (1) as part of the pre-action process given that central reliance is placed on this document in response to the pre-action correspondence; (2) pursuant to the Art.2 procedural duty that investigations are to be conducted with a sufficient element of public scrutiny and participation of next-of-kin; (3) pursuant to the Freedom of Information Act 2000.

Answer

As previously mentioned the requested document is withheld and the following explanation is provided.

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

Section 30(1) Investigations and Proceedings Conducted by Public Authorities - Information held by a public authority is exempt information if it has been held at any time by the authority for the purposes of:

- (a) Any investigation which the public authority has a duty to conduct with a view to it being

ascertained (i) whether a person should be charged with an offence.

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 30 is a class based and qualified exemption which means that there is no requirement to evidence the Harm in release but that it is necessary to conduct a Public Interest Test.

Public Interest Test

Factors Favouring Disclosure - Section 30

There is a strong public interest in ensuring that this and any other investigation is or has been undertaken professionally and rigorously by PSNI. Disclosure of the requested information could promote public trust in providing transparency and demonstrating openness and accountability into how investigations take place. Releasing the information may better inform the public and encourage others to come forward with evidence that could assist in the detection and apprehension of an offender/s if they know a proper investigation will be undertaken. All police investigations involve the use of public funds and this information could allow the public to make informed decisions about police procedures and the money spent in this business area.

Factors Favouring Non-Disclosure - Section 30

Information is held for the purposes of an investigation and if PSNI were to release information, this may undermine any investigations relating to this or other cases. Evidence needs to be preserved and not released so that the course of justice is not impeded should any new evidence come to light. Disclosure of any such information could infringe not only on a suspect's right to a fair trial but also on the rights of the victim(s) if a prosecution were to fail due to disclosure of the information.

There is a strong public interest in maintaining the Section 30 exemption in order to protect witnesses and in not deterring potential witnesses from making statements for fear that their evidence might not be treated in confidence. Also for maintaining the independence of the judicial and prosecution process and preserving the criminal court as the sole forum for determining guilt.

It is the National Police Chief Council (NPCC) approach that information relating to an investigation will rarely be disclosed under the provisions of the Freedom of Information Act. Whilst information may be released if it provides a tangible community benefit, for example to prevent or detect crime or to protect life or property, it is hard to see how the information here will do so.

Decision

Although there is a public interest in the transparency of investigations the police service has a greater duty of care to all individuals involved in any investigation. The police service will not disclose information which could prejudice this case.

The release of information under 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 how the information is shared with other individuals therefore a disclosure under FOI is considered a release to the world in general.

The prospect of a future investigation or pursuing an evidential opportunity is not extinct and to release information at this time into the public domain via the FOIA 2000 could compromise and undermine the case overall.

The release of any investigative material has the potential to compromise opportunities to bring offenders to justice, in this and other cases. The PSNI have statutory obligations in respect of material held and have to act in accordance with such statutory obligations, therefore material relating to the investigation cannot be disclosed to the public, except following the direction of a court, or production of a court order.

PSNI must ensure that investigations or future evidence opportunities are not adversely affected by the release of information. The requirement to withhold information relating to a criminal investigation together with personal information, the release of which may affect the health and safety of individuals, must take precedence over the important issues of public accountability and transparency. For the reasons outlined, the requested information is withheld.

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.