

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-02471

Keyword: Crime

Subject: Bank Thefts

Request and Answer:

In relation to request no F-2021-02471 Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

Request

Under Freedom of Information legislation I respectfully request the following:

The criminal reference number for police involvement around a report of the theft of cash by an employee of the premises named, in or around 1997/1998, at which the individual in question was escorted from the premises by officers.

And the reason as to why police engagement ceased leading to no prosecution.

Background Detail from Requestor

We are currently working the case of the named person from named place who is awaiting sentence at Dungannon Crown Court for a vast fraud against their former employer named company (owned by named company).

In the course of our investigations a number of sources have advised of an incident involving the same person, but before they were married when they were known as previously named person.

They worked for a time at the named premises from where they were escorted from the premises by Police after being caught stealing a significant amount of cash.

The named person was employed in the region of six months and it is understood this was around 1997/1998.

Our investigations have found a decision was taken by the then named premises not to proceed with a prosecution on the basis the named person was dismissed and their parents repaid the stolen funds.

However there was documented and witnessed Police involvement in what was not only a theft but a significant breach of trust.

We therefore seek confirmation of this matter and further request a comment is provided as to how it

was dealt with, why no charges were brought and who made this decision (job title).

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

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.

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](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

Section 40(5B) (a) (i) - Personal Information

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies -

- (a) giving a member of the public the confirmation or denial that would have to be given to comply

with section 1(1)(a)

(i) would (apart from this Act) contravene any of the data protection principles

The release of information under FOIA is a release into the public domain and not just to the individual requesting the information. Once information is disclosed under this legislation there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOIA is considered a disclosure to the world at large.

To confirm or deny that the PSNI hold or do not hold information would in fact confirm information about individuals including the fact such information may or may not be held. Confirming or denying information of the nature you have requested is held or not would be highly unfair to any individuals and would contravene the first data protection principle which states that personal information should be processed in a lawful and fair manner (s. 35 DPA 2018). Such individuals if the information was held or not would have no expectation that details as this would be released into the public domain, therefore PSNI's data protection obligations to those individuals would be contravened. PSNI also followed the Information Commissioner's '*Neither Confirm nor deny in relation to personal data*' guidance in this case to support our rationale. In particular paragraph 16 of this guidance states:

"There may be circumstances, for example requests for information about criminal investigations or disciplinary records, in which simply to confirm whether or not a public authority holds that personal data about an individual can itself reveal something about that individual. To either confirm or deny that the information is held could indicate that a person is or is not the subject of a criminal investigation or a disciplinary process. If to do so would contravene data protection principles, for example because it would be unfair, then the public authority is not obliged to confirm or deny that it holds the information." (available at www.ico.org.uk)

Section 40 (5B) (a) (i) is an absolute exemption; therefore it is not necessary to carry out a public interest test.

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

Section 31 is a qualified class based exemption and a public interest test is required.

Public Interest Test

Factors favouring confirmation or denial

There is a public interest in the transparency of policing and to provide reassurance that the Police Service is/was appropriately and effectively dealing with crime, however there is a strong public interest in safeguarding the integrity of the Police Service to fulfil its core function of law enforcement. Confirming or denying that information exists relevant to this request would lead to a better informed public demonstrating that PSNI evidence gathering appropriately and in line with current legislation in order to assist in criminal investigations.

Factors against confirmation or denial

Whilst there is a public interest in the transparency of policing and providing assurance that the Police Service is/was 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. As this is a specific area and relates to criminal investigations a confirmation or denial would identify police focus and could better inform criminals of investigations. There is a public interest in preserving this evidential material so that the functions of any possible future reviews are not compromised.

Decision

Confirmation or denial of whether the PSNI hold any other information would amount to a release of information either on this occasion or on other occasions where a similar request is made. Irrespective of what information is or is not held, the public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain.

Whilst there is a public interest of transparency into policing operations and reassurance that the PSNI is effectively and appropriately dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations. As much as there is a public interest in knowing that policing activity is appropriate and effective, this will only be overridden in exceptional circumstances. Release of information linked to any investigation could potentially compromise any possible future reviews and evidence gathering opportunities, therefore evidential material must be preserved.

Any disclosure by PSNI, no matter how generic, would undermine any trust or confidence individuals have in us, therefore, at this moment in time it is our opinion that for this request the decision favours neither confirming nor denying that the requested information is held.

However, 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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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.