



FREEDOM OF INFORMATION REQUEST



Request Number: F-2012-03032

Keyword: Crime

Subject: Investigation by RUC or PSNI

Request and Answer:

Question 1

Where has the £51,600.12 gone?

Question 2

Who has stolen xxxxxx's money?"

Question 3

What investigation(s), if any, have been carried out by the Royal Ulster Constabulary (RUC) or Police Service of Northern Ireland (PSNI) concerning the 'stolen' monies, up to £51,600.00 from xxxxxx's resettlement package?

Question 4

Who carried out the investigation(s)?

Question 5

What were the findings of those investigations?

Question 6

Has any of the 'stolen' monies been traced or recovered?

Question 7

If so, please supply full details and supply dates and amounts.

Question 8

Have any other agent(s), former agent(s) complained about monies being 'stolen' from their resettlement package(s)?

Question 9

If so, supply all recorded information.

Question 10

Have the PSNI ever referred the xxxxxx case and the 'stolen' monies to the Police Ombudsman?

Question 11

If so, please supply all recorded information.

Question 12

If not, why not? Will they now be doing so given the large amounts involved (up to £51,000.00) of public money?

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.

This notice therefore acts as a refusal notice under Section 17(4) of the Freedom of Information Act 2000, Refusing Requests for Information, which states that a public authority is not obliged to make a statement, under subsection (1) (c) or (3) if, to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny (NCND) that it holds the information relevant to your request by virtue of the following exemptions:

Absolute Exemptions

Section 23 (5) Information relating to security bodies.
Section 40 (5) Personal Information.

Qualified Exemptions

Section 24 (2) National Security.
Section 30 (3) Investigations.

Section 23 is a classed based absolute exemption and therefore PSNI are not required to comment any further. Regarding Section 40 (5), although this is an absolute exemption, it is qualified and requires a public interest test.

Sections 24 (2) and 30 (3) are qualified exemptions which means PSNI are required to conduct a public interest test in relation to their usage in Neither Confirming Nor Denying the existence of any information.

Public Interest Test

Section 24 (2) National Security

Factors favouring confirmation or denial

Any confirmation or denial that the PSNI holds such information would allow the public to gauge the appropriate use of public funds in carrying out their national security investigations. In addition it would provide appropriate transparency and reassurance that intelligence/information in relation to national security is known or not known.

Factors not favouring confirmation or denial

NCND must be applied consistently. In order for the police and other bodies to protect national security they must be able to maintain secrecy around specific targets of interest (whether these be people, properties etc).

By confirming or denying any policing arrangements would render national security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

In some cases it is possible that analyses may be assisted by intelligence supplied by one or more of the bodies listed at section 23 (3) of the Act. Sections 23 (5) and 24 (2) are therefore cited in conjunction to protect the involvement or non-involvement of security bodies.

Section 30 (3) Investigations

Factors favouring confirmation or denial

The public interest will always be in providing appropriate information that police investigations are being carried out effectively and efficiently. Confirmation of information held or not held in this case could promote public trust in providing transparency, whilst demonstrating openness and accountability into the level of information the PSNI may or may not be aware of.

Factors not favouring confirmation or denial

Routine confirmation or denial about the level of information held in any current police investigation could seriously undermine the investigation and prejudice the detection of crime and prosecution of offenders. This would lead to the investigation being prejudiced and would effect the PSNI's future law enforcement capabilities if such information was released before an investigation had been concluded.

Section 40 (5) Personal Information

Although Section 40 is an absolute, class based exemption, a Public Interest Test is required for the purposes of NCND. To confirm that the PSNI hold the requested information would in fact amount to a release into the public domain of personal information about an individual. Individuals would have no expectation that their details would be released into the public domain, therefore their data protection rights would be breached by confirmation or denial that the information is held.

Factors Favouring Confirmation or Denial

Confirmation or Denial of the existence of the requested information would enable the public to have a better knowledge of what information is recorded by PSNI and therefore a better understanding of the decision making process when it comes to the disclosure of personal details.

Factors Against Confirmation or Denial

Individuals will expect that any information relating to them, if held by PSNI, will be treated in confidence. Confirming or denying the existence of this information would contravene the first principle of the Data Protection Act which states that personal data shall be processed fairly and lawfully and that a public authority must handle people's personal data only in ways that they would reasonably expect. The breach of an individual's data protection rights would be caused by confirmation or denial. This is the case whether or not the information is held.

Balance Test

I am obliged to weigh up the above factors in order to determine whether the public interest lies in maintaining a Neither Confirm Nor Deny stance. In this case, the public benefit in being more aware of what information PSNI may or may not hold in relation to criminal activities of any sort is outweighed by the potential risk to lawful processing, investigations, effective law enforcement and national security.

A disclosure under the Freedom of Information Act is a release of information to the world in general and not just to an individual applicant. The public interest is not what interests the public but what will be of greater good, if released to the community as a whole. It is for these reasons that the public interest must favour neither confirming nor denying that the requested information is held.

The PSNI has therefore determined that in all the circumstances of the case the public interest in maintaining the exclusion of the duty to Neither Confirm Nor Deny outweighs the public interest in confirming whether or not information is held.

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 Freedom of Information Team, 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 Freedom of Information, PSNI Headquarters, and 65 Knock Road, Belfast, BT5 6LE or by emailing xxx@xxxx.xxx.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, and 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.psnj.police.uk

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