



**FOI Reference: 179/2012**

**Request:**

i would also like to request that i have in writing that the magistrate was on oath whilst sending a summons to the entity known as THOMAS J TALENT and that your fellow officers were on oath when entering the property known as bryn yr eglws lampeter to execute drug warrants, even though consent was clearly refused, NO Joinder was given and I DID NOT STAND UNDER when asked! (Common Law Rights) also was there an investigation into this?

And if someone is not part of the law society why are the officers trying to enforce misuse of drugs act, which implies they had consent to enforce on people attempting using coercive legalese even when the humans in question refuse to stand under, why then are a handfull of officers resorting to force? to they not know the foundation of law? Common law? Magna Carta Article 61 worth a read before jumping to court ;)

Without any acceptance of any liability whatsoever, and with all Indefeasible Rights reserved

**Clarification:**

And i would also like to request that i have in writing that the magistrate was on oath whilst sending a summons to the entity known as THOMAS J TALENT and that your fellow officers were on oath when entering the premisses any time period in the last THREE calender years, pre-todays-date

**Response:**

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at s1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at s1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon section 17 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) State (if that would not otherwise be apparent) why the exemption applies

The Dyfed-Powys Police Force can neither confirm nor deny that it holds the information relevant to your request as the duty in s1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of Section 40(5) (a) (b)(i) Personal Information and Section 30 (3) Investigations and Proceedings Conducted by Public Authorities.

### **Section 40(5) (a) (b)(i) Personal Information:**

The duty to neither confirm or deny under this section of the Act arises where the disclosure of the information into the public domain would contravene any of the data protection principles or Section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded.

Disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. Therefore, simply confirming or not that such information were held would disclose personal information about individuals.

As such any disclosure that identifies an individual or identifies that an individual has had contact with Dyfed Powys Police or not is exempt and would be a clear breach of principle 1 of the Data Protection Act. Personal data is defined under Section 1 (1) (e) of the Data Protection Act (1998) as:

*“... Data which relate to a living individual who can be identified-*

*(a) from those data, or*

*(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual. “*

### **Principle One:**

*“Personal data shall be processed fairly and lawfully and in particular shall not be processed unless*

*(a) at least one of the conditions in Schedule 2 is met, and*

*(b) in the case of sensitive personal data at least one of the conditions in Schedule 3 is also met.”*

In this case the information requested would be the personal information of the data subject and any disclosure, by citing an exemption or stating no information held would clearly breach the Data Protection Act. The most appropriate DPA Principle likely to be breached is the first one which states in part that: "Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 is met, and in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."

An example of where this harm could occur may best be demonstrated with a fictional scenario. If I made a Freedom of Information request, asking for confirmation of whether or not an individual has received a speeding ticket. By exemption the information would reveal that Dyfed-Powys Police actually hold documentation regarding the issuing of a speeding ticket. Similarly by stating no information held would reveal that we have not issued a speeding ticket to a particular individual. Disclosing such a fact to the world would be a direct breach of Principle One of the Data Protection Principles of the Act whereby the rights of that individual would be breached in relation to the fair and lawful processing of such data.

Section 40 is a class based Absolute (in part) exemption and on rare occasions consideration must be given as to whether there is a public interest in neither confirming nor denying the information exists is the appropriate response.

Factors favouring confirmation or denial for S40 – By confirming or denying whether any information is held, the general public could feel better informed and reassured.

Factors against confirmation or denial for S40 – By confirming or denying whether any information is held could potentially breach the Data Protection Act and in particular the first Data Protection Principle as disclosure may not be processed fairly and lawfully (especially in the case of sensitive personal data).

#### Balance test

The points above highlight the merits of confirming or denying the requested data exists. The police service relies heavily on the public providing information. The public have an expectation that any information they provide will be treated with confidence. Anything that puts that confidence at risk would have a serious detrimental effect on the police service.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirmation or denial is not made out.

In accordance with the Freedom of Information Act 2000, this letter represents a Refusal Notice for this particular request.

No inference can be taken from this refusal that the information you have requested does or does not exist.

The right given under the Freedom of Information Act 2000 to request official information held by public authorities does not apply to personal data - any such requests become subject access requests under the Data Protection Act 1998. Therefore should you wish to know what information (if any) Dyfed-Powys Police holds about you, or you would like confirmation that you do, or do not have a prosecution/conviction history; you must complete a Subject Access form and return it to the Data Protection Officer at Police Headquarters, Dyfed-Powys Police, Carmarthen. A payment of a £10.00 fee and proof of identification must accompany a completed application form. A copy of the form is enclosed; alternatively the form can be downloaded from the Dyfed Powys Police website @

[www.dyfed-powys.police.uk/en/information/dataprotection/](http://www.dyfed-powys.police.uk/en/information/dataprotection/)

Please note that once the Data Protection Officer has received your completed application the process to provide you with information can take up to 40 days.

Please do not hesitate to contact the Data Protection Officer on 01267 226568 or e-mail [dataprotection@dyfed-powys.pnn.police.uk](mailto:dataprotection@dyfed-powys.pnn.police.uk) should you wish to discuss this matter further.

Alternatively, the Information Commissioners Office (ICO) website provides information relating to personal information and their hyperlink is provided below:

[http://www.ico.gov.uk/for\\_the\\_public/your\\_personal\\_information.aspx](http://www.ico.gov.uk/for_the_public/your_personal_information.aspx)

#### **Section 30 (3) Investigations and Proceedings Conducted by Public Authorities:**

Section 30 is a class based qualified exemption and consideration must be given as to whether there is a public interest in neither confirming nor denying whether the information requested is held or not.

Factors favouring confirmation or denial for S30 – Confirmation or denial that any information exists could provide satisfaction to the general public that investigations are conducted properly. In addition it could allow the public to make informed decisions about police procedures and the money spent in this business area.

Factors against confirmation or denial for S30 – The police service relies on information being supplied by the public as well as the public rely on information about or supplied by them is handled sensitively, confidentially and appropriately. Any disclosure which undermines this trust and confidence means it is likely that people will be less willing to come forward and provide information to the police which will impact on our ability to detect and prevent crime. Therefore the Police Service will not disclose whether it has or hasn't carried out an investigation in relation to a particular individual or individuals or allegation unless that information is already in the public domain. Any disclosure under Freedom of Information is a release of information to the world in general and not an individual applicant. Therefore, by simply applying exemptions or stating no information held would confirm whether a force does or does not hold information relating to the request.

#### Balance test

The Police service will not divulge whether information is or is not held if to do so would undermine law enforcement. Whilst there is a public interest in the transparency of policing and providing assurance that the police service is appropriately and effectively conducting any such investigations, these factors need to be weighed against the very strong public interest in safeguarding the integrity of police investigations. The police service relies heavily on the public providing information. The public have an expectation that any information they provide will be treated with confidence. Anything that puts that confidence at risk would have a serious detrimental effect on the police service.

It is therefore the Dyfed-Powys Police opinion that for these issues the balancing test for confirming or not that information is held, is not made out

In accordance with the Freedom of Information Act 2000, this letter represents a Refusal Notice for this particular request.

No inference can be taken from this refusal that the information you have requested does or does not exist.

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