

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 31 January 2012

Public Authority: Police Service of Northern Ireland
Address: 65 Knock Road
Belfast
BT5 6LE

Decision (including any steps ordered)

1. The complainant requested information relating to a police investigation. The Police Service of Northern Ireland (the PSNI) refused to comply with the request, arguing that it was vexatious under section 14(1) of the Act. Following the Commissioner's intervention the PSNI withdrew reliance on section 14 and issued a revised refusal notice to the complainant.
2. The Commissioner's decision is that the PSNI failed to comply with section 17(1) of the Act in that it failed to issue its revised refusal notice within the statutory time limit.
3. The Commissioner does not require the public authority to take any further steps to ensure compliance with the legislation in respect of the complaint submitted to him in this case.

Request and response

4. The complainant in this case was the victim of a number of incidents which were investigated by various police forces including the PSNI. The complainant is of the view that these incidents have not been properly investigated and has made several requests for information relating to the investigations.
5. On 14 February 2011 the complainant made an information request to the PSNI. The request comprised 18 questions relating to an investigation of an incident of which the complainant was a victim. The request is reproduced in full at Annex 1 at the end of this Notice.

6. The PSNI responded on 14 March 2011, stating that the request was considered vexatious; therefore it was being refused under section 14 of the Act. The PSNI advised the complainant that:

"As this further request refers to subject matter as defined in F-2010-03589, it has also been deemed vexatious as it falls under information relating to investigations.

I confirm that any further requests made under the Act for information relating to the incidents in which you were involved and any subsequent requests in this area will be categorised as vexatious and will not be administered in any capacity."

7. On 14 April 2011 the complainant requested an internal review. On 17 May 2011 the PSNI advised the complainant that it had now completed the internal review. The PSNI stated that, for the same reasons as set out in the refusal notice, it had decided to uphold the original decision to refuse the request under section 14 of the Act.

Scope of the case

8. On 25 May 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled, specifically the imposition of section 14 of the Act.
9. The Commissioner notes that the complainant has made a number of complaints in respect of requests he made to the PSNI. As of the date of this Notice the Commissioner has issued Decision Notices in relation to two of these other complaints. These Decision Notices found that the PSNI had wrongly applied section 14 to both requests.
10. In light of the Commissioner's findings in these cases, the PSNI reviewed its application of section 14 in relation to the request of 14 February 2011. The PSNI subsequently accepted that the request was not vexatious and therefore its reliance on section 14 could not be sustained.
11. The PSNI has now withdrawn reliance on section 14 and has re-considered the request. The PSNI issued a revised refusal notice to the complainant on 12 January 2012. Therefore the Commissioner is not required to make a decision as to whether or not the PSNI was correct to apply section 14 in its original response.

Reasons for decision

Section 17(1): refusal notice

12. Section 17(1) states that a public authority wishing to rely on any exemption to refuse a request must issue a valid refusal notice within the statutory time for compliance, i.e. twenty working days. The refusal notice must state the exemption being relied upon by the public authority. Section 17(5) states that a public authority relying on section 14 must issue a notice stating that fact.
13. In this case the PSNI originally issued a notice stating that the request was being refused under section 14 of the Act. The PSNI subsequently withdrew its reliance on section 14, and issued a fresh refusal notice. Therefore the original notice of 14 March 2011 was deficient in that it referred to section 14, and did not state the exemptions which the PSNI now seeks to rely on.
14. As the PSNI has now accepted that the request was not vexatious, and issued a revised refusal notice to the complainant, the Commissioner does not require the PSNI to take any remedial steps. However the PSNI breached section 17(1) for not supplying the revised refusal notice within the statutory time limit.

Right of appeal

15. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 1234504
Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. If you wish to appeal against a Decision Notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Signed

Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

Full text of request made on 14 February 2011

"The PPS stated in their 01-02-2011 correspondence to me that;

"Enquiries have been made with the Royal Victoria Hospital and Musgrave Park Military Hospital. No records have been identified concerning your admission on 8th August 1991."

1. Please supply all information and or documents relating to all such requests and enquiries by the PSNI (or RUC) to both Royal Victoria Hospital and Musgrave Park Military Hospital and also all replies received.

And; "While there is some indication that fingerprints of three suspects were recovered at the scene it is by no means clear that these could now be proved to the requisite standard. The original exhibits are unavailable and it is not possible to identify the officers responsible for recovering the prints and supplying them for analysis."

2. Please give full details of all fingerprints recovered from the scene.

3. Please list and supply full details concerning the '...original exhibits ...' which are referred to in PPS letter and supply full details concerning all other exhibits recovered by the RUC at the crime scene.

4. Please supply full details, information and documents concerning all requests and enquiries made by PPS to PSNI, including all replies, for information relating to; 'The original exhibits are unavailable and it is not possible to identify the officers responsible for recovering the prints and supplying them for analysis.'

5. Please supply all information and documents held by PSNI (and or RUC) concerning 'One of the suspects is thought to have been the tenant of the property at the time ...' as well as all information concerning; ' ... and the two other suspects were his associates.'

And; 'The fingerprints were on newspapers and books with no direct link to the alleged offence. There is, in short, no forensic evidence to support your account.'

6. Please supply all information Police have concerning where all fingerprints were found, on which items, number of items and where were the said items recovered from.

- 7. Please supply all information given to the PPS by the PSNI which confirmed that I was in the flat on the 8th Aug 1991.*
- 8. Are the PSNI satisfied that I was in the flat. If so, please supply all information and documents they have concerning my being inside the flat on 08-08-91.*
- 9. Please detail all other forensic evidence which was recovered from the scene by police, inside and outside the flat.*
- 10. Please supply all information relating to statements made by all other third parties which make reference to man jumping out of window.*
- 11. Please supply full details concerning '...crime scene was held at 54D Broom Park and that an examination was carried out by a scenes of crime officer and a photographer.' What was the name of all officers involved. When did they, police first arrive at the crime scene and when did they leave the crime scene. Was anyone arrested at the scene on the day, 8th Aug 1991.*
- 12, Please supply all detail, information or evidence which was recorded by the police photographer concerning broken window(s) and or broken glass both inside and outside the flat, crime scene.*
- 13, Please supply all information or detail concerning person(s) referring to man, at flat or nearby, who's feet were tied and who was not wearing shoes.*
- 14, Please supply all information which was recorded concerning my shoes, trainers and or the laces having been recovered from inside or outside the flat.*
- 15. When did Police first speak to the owner of the flat, what date, and how was owner contacted. Please also explain any delay in making contact with the owner. How did the owner of the flat explain the events which took place at the flat on 08-08-1991, flat. What explanation did the owner of the flat give concerning broken window(s), man found injured on ground outside, police and others treating the flat as a crime scene etc.*
- 16. Please supply all detail or information concerning any reference relating to the flat having been taken over by anyone, including terrorists, by force, making threats or using intimidadation.*
- 17. What date did the PSNI first made aware that; 'The original exhibits are unavailable ...' and by whom, name of officers.*

18. I'm being told; '...original exhibits are unavailable ...' Please supply all information and documents concerning what happened to these exhibits, where have they gone. When did police discover the exhibits were missing and what has been done to find them. Which officers were involved in same.

19. I'm also being told; '... it is not possible to identify the officers responsible for recovering the prints and supplying them for analysis.' Please supply all information and documents concerning all attempts made by police to identify all officers involved.

20. When did the police first become aware that; '... it is not possible to identify the officers responsible for recovering the prints and supplying them for analysis.' What was the name of officers. How was the information passed to the police. Please supply all documents and information concerning same letters to the police as well as all replies relating to same."