



FREEDOM OF INFORMATION REQUEST



Request Number: F-2012-02229

Keyword: Crime

Subject: Unmanned Aerial Vehicles

Request and Answer:

Question 1

Under the Freedom of Information Act, I request access to and copies of all documents, including emails, meeting reports, minutes, emails and official communications relating to

Question 2

Consideration of the potential use of Unmanned Aerial Vehicles (UAVs)/Unmanned Aerial Systems (UASs) since January 1, 2009.

Question 3

I would like the response to include all discussions within the force and with other forces and interested parties, including potential suppliers, during the period.

Answer

Your request for information has now been considered and the decision has been taken not to supply the information you have requested.

Section 17(1) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland (PSNI) 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 exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Qualified Exemptions

Section 31 (1) (a) (b) Law Enforcement
Section 40 (2) Personal Information
Section 43 (2) Commercial Interest

Section 40

Is an absolute exemption and does not require the public interest or harm to be evidenced and articulated to the applicant.

Section 40(2) Personal Information

Public authorities are in general, exempt from the Act's duty to provide access to 'personal data' (as defined in the Data Protection Act 1998).

Where an application for information is made by someone other than the 'data subject' disclosure of that information will often constitute a breach of the Data Protection Act and consequently the public authority will usually be exempt from its duties under the Act as a result of Section 40 (2).

Sections 31(1)(a)(b) and Section 43(2)

There are prejudice based qualified exemptions which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

Harm

The essence of the work undertaken by the PSNI is to protect both individuals and society as a whole. PSNI is entrusted with a considerable amount of information, some of which is commercial sensitive.

Release of information under FOI must be considered a release of information to the world as a whole. It could be argued that it would be in the public interest to demonstrate that the PSNI is actively involved in the prevention and detection of criminal activities. Providing evidence of police methodology and cost may inform public debate and boost levels of confidence within the community.

The PSNI consider that damage could be caused to law enforcement if information relating to the use and cost of UAVs/UASs was released. This could assist criminal groups in evaluating the deployment of police resources in any particular area of Northern Ireland.

The release of the requested information would rarely be in the Public Interest and may reduce the PSNI's capability to perform its overall functions under the Police (NI) Act 2000, which states:

“It shall be the general duty of police officers –

to protect life and property;

to preserve order;

to prevent the commission of offences;

where an offence has been committed, to take measures to bring the offender to justice.”

Section 43 (2) - Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice commercial interests of any person including the public authority holding it.

Consideration has been given to the likelihood that the release of this information would prejudice commercial interests and law enforcement. Whilst it cannot be evidenced that these are definite factors, as the evidence of harm is largely based on future consequence, it is considered that there is substantial and significant risk that commercial interests and law enforcement techniques would be likely to be prejudiced.

PSNI also consider that the information you have requested is commercially confidential, as it may provide another commercial body with valuable information that may be used in future.

To provide this information would undermine the company's ability to be competitive when providing services to the public sector. This would leave them vulnerable to unfair negotiations when a customer requires their services.

Section 31 Public Interest Considerations

Section 31 Factors Favouring Disclosure

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve and there is a public interest in the transparency of effective law enforcement and the use of the public funds. It could be argued that by releasing the potential uses of UAVs/UASs could lead to better informed public awareness and debate.

Section 31 Factors Favouring Non-disclosure

The Police Service has a duty to deliver effective law enforcement ensuring the prevention and detection of crime and apprehension or prosecution of offenders is carried out appropriately. They will not reveal detail, no matter how generic, which would compromise effective law enforcement issues.

Section 43 Public Interest Considerations

Factors Favouring Disclosure

When information disclosed relates directly to the efficiency and effectiveness of the PSNI or its officers it is generally of benefit to the community. In this case, the release of the requested information could enable the public to have a better understanding of the efficiency and effectiveness of the PSNI and any partners.

Factors Favouring Non- Disclosure

The Police Service has a duty to protect the sensitive commercial information it holds. In this case the requested information involved in the potential use of UAVs/UASs are considered commercial information and its disclosure could prejudice commercial interests, as detailed within the harm above.

Balancing Test

When balancing the public interest test we have to consider whether the information should be released into the public domain. Arguments need to be weighed against each other. The most persuasive reason for disclosure is Use of Public Funds which needs to be compared to the strongest negative reasons, which in this case are Law Enforcement and Commercial Interests. The police service cannot and will not disclose information which will place the public at risk by undermining law enforcement techniques or commercial interests thereby assisting those intent on committing crime.

Additionally, the PSNI can neither confirm nor deny that they hold any other information relevant to the whole of your request by virtue of the following exemption:

Section 23(5) Information supplied by, or concerning, certain security bodies.

The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

This is an absolute exemption and I am therefore not required to complete a public interest test.

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, 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.psni.police.uk

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