



FREEDOM OF INFORMATION REQUEST

Please note the text of this request has been reproduced exactly as received.

FOI Reference number: FOI 11/2024

Date: 20 February 2024

Request:

I refer to the published minutes for the Special Meeting held on 4th September.

Point 2 of the minutes refers to: "A confidential annex detailing this discussion can be made available to Members for review but will not be published at this time."

Please can you:

1. Publish the unredacted contents of the annex mentioned in the minutes.
2. When this will be done if this FOI is declined?
3. Detail what was the basis of the decision not to publish the annex?

Answer:

Question 1: Publish the unredacted contents of the annex mentioned in the minutes;

A large portion of the minutes of the 4th September has been published. The remaining elements are considered confidential and will not be published.

Question 2 : When this will be done if this FOI is declined?

See response to FOI Question 1.

FOI Question 3: Detail what was the basis of the decision not to publish the annex?

The remaining confidential element of the 4th September minutes is personal or legally privileged. As such the exemptions at section 40(2) Third Party Personal Information and Section 42 Legal Professional Privilege of the Freedom of Information Act 2000 are engaged.

Personal information is exempt from disclosure to you under section 40(2) by virtue of section 40(3)(a)(i) of the FOIA. Section 40(2) allows a public authority to withhold information from a response to a request for information under the FOIA when the information requested is personal information relating to someone other than the requester and its disclosure would contravene one of the data protection principles. The first data protection principle requires personal data to be processed fairly and lawfully. This personal data is exempt from disclosure

under section 40(2) of the FOIA as, in our view, it would be unfair to provide it to you, and therefore disclosure would be in contravention of the first principle of the UK General Data Protection Regulation (GDPR). This is an absolute exemption and there is no requirement to conduct a public interest test.

Legally privileged information is exempt from release under Section 42 (2) (Legal Professional Privilege - Advice Privilege) of the Freedom of Information Act 2000. Section 42 of the Act is a qualified exemption and as such has been subject to a 'Public Interest Test' a copy of which is attached at **Appendix A**.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

If you have queries about this request or the decision, please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should contact the Board's Chief Executive -

Via Email: foi@nipolicingboard.org.uk

Or in writing at the following address:

Northern Ireland Policing Board
James House
Block D
2 – 4 Cromac Avenue
The Gasworks
Belfast
BT7 2JA

You should contact the Board within 40 working days of this response.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at the following web link –

www.ico.org.uk/foicomplaints

or in writing at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114
Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

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

FOI 11/2024 – Section 42 Exemption “Advice Privilege”

Public Interest Test

The above exemption is a qualified exemption, and a Public Interest Test must be carried out to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Information under consideration for release

A confidential annex from the Board Meeting held on 4th September 2023.

Arguments in favour of disclosure of the requested information

1. Disclosure of the requested information would be in line with a public authority being open and transparent in how it transacts its business, and would help in promoting accountability.
2. Disclosure would also be within the overall spirit of the Freedom of Information legislation in asking public bodies to be open and transparent.

Arguments in favour of engaging the exemption and withholding the requested information

1. Maintaining legal privilege would safeguard openness in all communications between the Board and its legal advisors to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.

Result

Taking into account the deliberations above, it is felt that the public interest in engaging the exemption to withhold the information outweighs the arguments towards disclosure.

As a result the information should not be provided.