



FREEDOM OF INFORMATION REQUEST



Request Number: F-2019-02855

Keyword: Operational Policing

Subject: Police Service Numbers

Request and Answer:

In relation to request no F-2019-02855 Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

Request

Reference the following police incidents: reference numbers provided.

Can I request the Service Numbers only of all Officers attending the incidents? This includes service numbers (as per command and control and niche systems) of drivers, observers, crews providing assistance, satellite crews etc.

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.

Where exemptions are relied upon Section 17(1) 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) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 40(5B)(a)(i) - Personal Information - the duty to confirm or deny does not arise if to do so would contravene any of the data protection principles.

Section 31(3) Law Enforcement - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would or would be likely to, prejudice any of the matters mentioned in subsection (1).

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

'Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when to refuse to confirm or deny section 1 foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when-to-refuse-to-confirm-or-deny-section-1-foia.pdf)

Section 40 (5B) (a) (i) is an absolute exemption; therefore it is not necessary to carry out a public interest test.

Section 31 is prejudice based and qualified exemptions, which means there is a requirement to articulate the harm caused by confirming or denying that the information is held as well as carrying out a public interest test.

40(5B) (a) (i) - Personal Information

Information disclosed under the FOIA is disclosed into the public domain, effectively to the world and not just to one individual. To confirm or deny whether personal information exists in response to your request could publicly reveal information about individual police officer/s, thereby breaching the right to protection of their personal information afforded to them under the Data Protection Act 2018. When confirming or denying that information is held would breach an individual's rights under the Data Protection Act legislation, Section 40 (5) becomes an absolute exemption, and there is no requirement to provide evidence of a prejudice occurring, or to conduct a public interest test. To confirm or deny that the PSNI hold or do not hold information would in fact confirm information about an individual including the fact it may or may not be held. This would amount to a release into the public domain of personal information about an individual. The individual would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

The release of information under Freedom of Information (FOI) is a release into the public domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

Harm

Modern-day policing is intelligence led and intelligence changes on a day-by-day basis. Disclosures under the FOIA are disclosures to the world and not just to the requestor. To confirm or deny that PSNI hold any information regarding any aspect of policing would be detrimental to our ability to be able to provide effective protection in a raised threat environment in Northern Ireland. It would also be detrimental to providing an efficient policing service and a failure in providing a duty of care to all members of the public. Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of policing activities will adversely affect public safety and have a negative impact on law enforcement.

Public Interest Test

Factors Favouring Confirming or Denying that the Information is held - Section 31

Confirmation or denial could promote public trust in providing transparency, demonstrating openness and accountability. The PSNI has a duty of providing a protective function to members of the public and individuals and there is a public interest in the public being aware how resources are utilised or whether they are not utilised in providing that function.

Factors Against Confirming or Denying that the Information is held - Section 31

To either confirm or deny that this information is held could provide individuals intent on causing harm with valuable information that they could use to target individuals. Article 2 of the Human Rights Act 1998 imposes a positive obligation on police to protect life, including the lives of police officers. Confirmation or denial of the existence of this information would be useful to terrorists in targeting the police officers and the individuals they protect leading to a breach of Article 2 and there is not a public interest in providing this.

PSNI relies on information being supplied by the public. Irrespective of what other information is or isn't held, by applying substantive exemptions would indicate that information is held and is currently being investigated. Such action would act as a deterrent to the public to provide intelligence to the force which would further undermine public safety, with repercussions that could hinder the prevention or detection of crime.

Decision

The points above highlight the merits of confirming, or denying, whether any other information pertinent to this request exists. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. As part of that policing purpose, the Police Service will never divulge whether or not information pertinent to this request does or does not exist, if to do so would place the safety of an individual(s) at risk, compromise or undermine the policing purpose in the effective delivery of operational law enforcement.

Whilst there is a public interest in the transparency of policing operations and investigations, providing reassurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding the health and safety of individuals. As much as there is a public interest in knowing that policing activity is appropriate and balanced it will only be overridden in exceptional circumstances.

PSNI considers the information you have requested is exempt by virtue of Neither confirm nor deny exemptions which PSNI is entitled to rely upon. 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 Corporate Information Branch, 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 Corporate Information Branch, 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.