



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2008-04503  
**Keyword:** Finance  
**Subject:** PAYMENT TO INFORMANTS

### Request:

The annual total paid by the PSNI to its informants in each of the last five financial years.

### 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 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, 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 30(2) Investigations and proceedings conducted by public authorities

Section 31(1)(a)(b)(c) Law Enforcement

Section 38(b) Health and Safety

### Harm

Covert Human Intelligence Sources (CHIS)(regardless of their motivation) provide information at particular personal risk to themselves and their families. As previous cases have shown, where CHIS are identified it can result in substantial physical harm, or mental trauma resulting from the threat of physical harm. This problem is particularly acute in cases relating to serious crime and terrorism where the threat against individuals is substantial. The disclosure of information relating to the total amounts paid to CHIS would allow those involved in serious and organised crime to interpret these payments across forces/services and apply these to law enforcement activities which have impacted upon their own criminal network. This would be particularly relevant where CHIS have provided information on high profile or significant

cases or have provided information to a smaller force/service, which would be easier to identify. This would or would be likely to result in such persons actively seeking to identify CHIS within their organisation and using extreme violence against them.

Exposing CHIS to public scrutiny would almost certainly compromise their right to privacy and a private life as defined in Article 8 of the European Convention on Human Rights. Agreeing to become a CHIS is a major step of trust, based on the understanding that information is given in confidence and that anonymity will be preserved. Any disclosure which undermines the confidence of current and potential CHIS would be a major deterrent to potential CHIS. This would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders by reducing the flow of information to the police service and intelligence agencies. The use of CHIS, either paid or unpaid, is a key tool used by law enforcement bodies for gathering intelligence, and CHIS are often the most valuable sources of information, enabling the police and other agencies to secure evidence and subsequent prosecutions. Any disclosure that may reduce the flow of information to the police service and intelligence agencies would have a substantial prejudicial impact on the ability of such authorities to collect reliable and accurate intelligence, and would result in them becoming dependant on more costly and time consuming methods of collecting intelligence.

Even within the law enforcement community, information relating to the payments provided to CHIS is placed strictly on a 'need to know', making the provision of this information in the public domain unthinkable.

The Office of the Surveillance Commissioner (OSC), through the Chief Surveillance Commissioner to the Prime Minister and to Ministers throughout the UK, presented its Annual Report (2007-2008) to Parliament. It is of particular note that it provided neither national figures in relation to the cost of CHIS to the Police Service nor a breakdown by force/service on CHIS payments. In addition, the OSC has confirmed that it does not issue information relating to CHIS in any public forum.

The release of this information may lead to individuals understanding patterns of expenditure which may lead to harm to either actual CHIS or people who may be wrongly suspected of being a CHIS.

The security of sources is of paramount importance to all law enforcement agencies (SWINNEY & Another v Chief Constable Northumbria Police 1999). Disclosure of precise expenditure could link rewards to police executive action causing criminals and criminal networks to actively seek out confidential sources within their organisations. The consequences of such activity could be significant, particularly the health and safety of individuals concerned.

## **Public Interest Test**

### Considerations Favouring Disclosure

#### Accountability

When information disclosed relates directly to the efficiency and effectiveness of the Police Service Northern Ireland or its officers. The purpose of the Act is to make public authorities more accountable and this factor, therefore, may be applied to a wide range of scenarios from how an individual or the PSNI fulfils their role or function, to policy decisions that have been taken in relation to investigations or general policy issues. In this instance, disclosure allows public scrutiny of information relating to CHIS.

#### Public awareness and debate

Where disclosure can assist individuals by raising awareness of issues, which may be of relevance to them. In this instance, where there has been public concern about the use of CHIS by law enforcement bodies, and disclosure of this information would contribute to more accurate public debate, allowing the opportunity to correct speculation and falsehoods.

#### Use of public funds

Where public funds are being spent, there is a public interest in accountability and justification. Disclosure of this information would enlighten members of the public as to the approximate amounts of money spent by the PSNI on CHIS. This will promote transparency and accountability where expenditure of public funds is concerned.

### Favouring Non-Disclosure

#### Investigations

It is rare that details of CHIS payments will be disclosed as to do so will invariably release law enforcement techniques.

#### Efficient and Effective Conduct of the PSNI

The current or future law enforcement role of the PSNI may be compromised by the release of information, i.e. where the prevention/detection of crime, the apprehension/prosecution of offenders or the administration of justice may be hindered as a result of the release of information. Disclosure of the requested information would impact on the ability of police forces/services to gather valuable intelligence.

#### Interests of individuals or third parties

Where individuals or third party interests might be jeopardised by release of information that relates to personal affairs of

individuals and/or sensitive information held about operational issues. A CHIS provides the information solely on the grounds that it is completely confidential; disclosure, of any kind, could adversely affect the reputation of an individual with dangerous consequences.

#### Public Safety

Release of this information may adversely affect wider public safety if the criminal fraternity/less law-abiding individuals are provided with a tactical advantage over the PSNI.

#### Flow of Information to the PSNI

Release of information would act as a deterrent to the public to provide information to the PSNI. There is a need to protect the flow of information from CHIS and the public, to allow all to have confidence that their information will be treated sensitively and appropriately. If the relationship between the PSNI and members of the public/CHIS were impeded, the gathering of information to enable the PSNI to perform its public service functions would become increasingly difficult. The use of CHIS takes place in an environment of absolute trust and confidence. Anything which undermines this ethos would have a detrimental effect, reducing the quality of information the PSNI receives.

#### Human Rights

The public interest will not be served if disclosure breaches the obligations placed on an authority under the European Convention on Human Rights, particularly the right to life and privacy. Particularly relevant here is the obligation, under Article 2 of the European Convention on Human Rights, which requires police forces/services to protect human life. Disclosure of CHIS information would also compromise individuals' right to privacy and a private life as defined in Article 8 of the European Convention on Human Rights.

#### Exemption Provisions

This information is covered by a number of exemptions and these tend to give rise to a public interest consideration favouring non-disclosure.

#### Balancing Test

While accountability is a strong factor, the PSNI and law enforcement agencies are already subject to scrutiny and full oversight by the Office of the Surveillance Commissioner. All police forces/services are subject to regular inspections by this body, which is adept at identifying cases where an inappropriate use of a CHIS has occurred.

On balance, if disclosed, there could be the likelihood that the future law enforcement role of the PSNI could be compromised and the safety of individuals and the public put at risk. It cannot be justified that the public's interest would be served in releasing this specific information if either of these aspects were to be compromised in any way.

If you have any queries regarding your request or the decision please do not hesitate to contact 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

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](mailto: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 all PSNI replies under Freedom of Information will be released simultaneously into the public domain via our website @ [www.psni.police.uk](http://www.psni.police.uk).

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