



FREEDOM OF INFORMATION REQUEST



Request Number: F-2013-04417

Keyword: Crime

Subject: Female Genital Mutilation

Request and Answer:

Question 1

How many investigations have you carried out on people suspected of performing FGM in the UK since it was made illegal in 2003?

Question 2

How many investigations have you carried out on people suspected of facilitating FGM in the UK since it was made illegal in 2003?

Question 3

How many charges have been made since 2003 and can we have dates and details of each charge?

Question 4

Are you currently investigating anyone of carrying out FGM in the UK ? And if so can you specify the details?

Question 5

Are you currently investigating anyone of facilitating FGM in the UK and if so can you specify any details?

Question 6

Have many investigations have you carried out on people who are suspected of taking girls abroad to have it done since 2003?

Question 7

Have you charged anyone accused of taking a female out of the UK illegally to have FGM abroad since 2003?

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(5) Personal Information
Section 30(3) Investigations
Section 31(3) Law Enforcement
Section 38(2) Health and Safety

The release of information under Freedom of Information is a release into the public domain and not just to an individual. To confirm that the PSNI hold the requested information would in fact confirm information personal to those individuals. This would amount to a release into the public domain, of personal information in relation to the individuals concerned and would breach his/her data protection rights.

Although Section 40 is an absolute, class based exemption; a public interest test is required for the purposes of Neither Confirming nor Denying that the information is held.

The duty to neither confirm or deny under this Section of the Act arises where the disclosure of the information into the public domain would contravene any of the data protection principles of Section 10 of the Data Protection Act 1998 or would do so if the exemptions in Section 33A(a) of that Act were disregarded.

Irrespective of what other information PSNI may or may not hold, any request which has potential to identify a third party, by citing an exemption, would attract a neither confirm nor deny response by virtue of Section 40(5) as it constitutes personal data of an individual other than the applicant and disclosure would contravene the first data protection principle which states in part that personal data shall be processed fairly and lawfully.

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying that any other information exists is the appropriate response.

Sections 31 and 38 are prejudice based, qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or not whether any other information is held, as well as carrying out a public interest test.

Harm

The Code of Practice on the Management of Police Information, as recommended by the Bichard Inquiry and associated guidance, sets national standards for the management of police information, including intelligence material, its physical security and the security of sensitive material, such as personal information. They are the authority on all questions of integrity of intelligence material and must be included as part of the operational protocols of the National Intelligence Model.

The National Intelligence Model is adhered to by all police forces across England, Wales and Northern Ireland. It is a business process with an intention to provide focus to operational policing

and to achieve a disproportionately greater impact from the resources applied to any problem. It is dependent on a clear framework of analysis of information and intelligence allowing a problem solving approach to law enforcement and crime prevention techniques.

The impact of confirming or denying whether any information is held with regard to this request, as well as with regard to any other information that may or may not be held, which relates to female genital mutilation offences, has the potential to undermine the flow of information (intelligence) received from members of the public into the Police Service and undermining both ongoing investigations and the Management of Police Information guidance. This could in turn lead to police officers having to be removed from their frontline duties in order to increase manpower on an investigation.

Disclosing information which details whether or not PSNI is currently investigating suspected offences of FGM or facilitating FGM, no matter how generic, becomes more meaningful if there is a risk of a person or persons being identified. While this is unlikely to happen amongst the general population, those involved in carrying out FGM offences, are often known to the victims and on occasions are family members themselves and these individuals may be able to draw a significant conclusion from any generic information disclosed. Such an action could lead to the informants being identified or even misidentified and the health and safety of those individuals placed at risk.

Public Interest Test – Section 40

Factors Favouring Confirmation or Denial that the Information is Held

To confirm or deny the existence of this information would promote transparency.

Factors Against Confirmation or Denial that the Information is Held

The breach of an individual's data protection rights would be caused by confirmation or denial. This is so whether or not the information is held, because if the PSNI refused to confirm or deny only in cases where information is held then it may be reasonably concluded that information is held when NCND is used.

Public Interest Test - Section 30

Factors Favouring Confirmation or Denial that the Information is Held

Confirming or denying that any other information exists relevant to your request and irrespective of what other information may or may not be held, would lead to a better informed public that PSNI robustly investigate offences of female genital mutilation which may encourage individuals to provide intelligence in order to assist investigations and reduce crime. Confirmation or denial would highlight where police resources are being targeted and the public are entitled to know how public funds are spent, particularly in the current economic climate.

Factors Against Confirmation or Denial that the Information is Held

Confirmation or denial that information is held in this case would suggest that PSNI take their responsibility to appropriately handle and manage information provided by individuals to assist with criminal investigations flippantly and dismissively, resulting in the force's future law enforcement capabilities being affected.

Public Interest Test - Section 31

Factors Favouring Confirmation or Denial that the Information is Held

There is a vast amount of information within the public domain relating to this subject, examples of these can be found below:

http://www.who.int/topics/female_genital_mutilation/en/

<http://www.childinfo.org/fgmc.html>

<http://www.west-midlands.police.uk/victims-witnesses/honour-abuse/fgm/index.asp>

However, irrespective of what information is or isn't held, confirmation that information exists relevant to FGM offences and investigations as requested within questions 4 and 5, would lead to a better informed public which may encourage individuals to provide intelligence relating to offences which could assist the investigative process.

Factors Against Confirmation or Denial that the Information is Held

Confirmation or denial that any other information is held in this case would suggest that PSNI does not take their responsibility to protect the safety of individuals seriously. It could also adversely affect public safety if offenders are provided with detail as to whether a victim has reported an offence of FGM to the police.

The Police Service relies on information being supplied by the public. Confirming or denying that information is held for these questions would act as a deterrent to the public to provide information (intelligence) to the force which would undermine public safety.

Public Interest Test - Section 38

Factors Favouring Confirmation or Denial that the Information is Held

Confirming or not that information is held in relation to your request and irrespective of what other information may or may not be held, would provide reassurance to the general public that information provided to PSNI is dealt with appropriately and investigations undertaken to target offenders who carry out FGM offences. This awareness could be used to improve any public consultations/debates in relation to this subject.

Factors Against Confirmation or Denial that the Information is Held

Confirmation or denial that information is held could lead to the loss of public confidence in PSNI's ability to protect the wellbeing of the community. Irrespective of whether other information is or isn't held, intelligence is used as a vital tool in ensuing all avenues and enquiries are carried out and exhausted with relates to reported offences. The safety and anonymity of members of the general public who provide this information is of paramount importance and any disclosure which could place the safety of those individuals at increased risk is not in the public interest.

Confirmation that any other information is held pertinent to this request, could lead to those individuals being targeted and physical harm caused to them by the offenders. In addition, information that causes speculation, e.g. misidentification of informant, has in the past caused innocent people to be targeted.

Decision

The points above highlight the merits of confirming or denying that any information pertinent to this request exists. **The release of information under Freedom of Information is a release into the public domain and not just to an individual.** The Police Service relies heavily on the public providing information to assist in criminal investigations and has a duty to protect and defend vulnerable individuals. The public has an expectation that any information they provide will be treated with confidence. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence individuals have in the Police Service.

In addition, the effective delivery of operational law enforcement is of paramount importance to PSNI in their duty to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirmation or denial that information is held is not made out.

No inference can be taken from this refusal that any other information does 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 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.psnipolice.uk

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