



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2013-05628

**Keyword:** Organisational Information/Governance

**Subject:** Children Aged 17 and under Registered on Visor

### Request and Answer:

#### Question 1(a)

I am writing to make a request under the Freedom of Information Act for details of the number of children aged 17 and under currently registered on the Violent and Sex Offenders Register (ViSOR)

More specifically:

Providing a snapshot at today's date (November 14, 2013) or about that date if more convenient for your systems, how many children aged 17 and under are registered on the Violent and Sex Offenders Register (ViSOR)?

#### Question 1(b)

How many of these ViSOR registered children are registered sex offenders (RSOs)?

#### Question 2(a)

How many of the ViSOR registered children are currently recorded as being taught in mainstream schools?

#### Question 2(b)

Please provide a list of all mainstream schools in the force area with at least one or more ViSOR registered pupil.

If my request is denied in whole, or in part, I request that you justify the reasons why, citing specific exemptions of the act.

### Answer

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information.

I have today decided to:

- disclose information in response to questions 1A and 1B in full;
- fully exempt information in response to questions 2A and 2B pursuant to the provisions of Section 44(2), Section 40(5), Section 30(3), Section 31(3), Section 38(2) of the Act.

**Question 1(a)**

I am writing to make a request under the Freedom of Information Act for details of the number of children aged 17 and under currently registered on the Violent and Sex Offenders Register (ViSOR)

More specifically:

Providing a snapshot at today's date (November 14, 2013) or about that date if more convenient for your systems, how many children aged 17 and under are registered on the Violent and Sex Offenders Register (ViSOR)?

**Question 1(b)**

How many of these ViSOR registered children are registered sex offenders (RSOs)?

**Answers 1(a) and 1(b)**

There are a total of 7 of children aged 17 and under registered on ViSOR and they are all registered sex offenders.

Caveat: Please note that this figure is only valid for the date in question because the information is dynamic and will change as arrests are made or new cases come to light through proactive intelligence led policing or routine visits to registered offenders.

**Question 2(a)**

How many of the ViSOR registered children are currently recorded as being taught in mainstream schools?

**Question 2(b)**

Please provide a list of all mainstream schools in the force area with at least one or more ViSOR registered pupil.

If my request is denied in whole, or in part, I request that you justify the reasons why, citing specific exemptions of the act.

**Answers 2(a) and 2(b)**

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 44(2) - Prohibitions on Disclosure
- Section 40(5) - Personal Information

Section 30(3) - Investigations  
Section 31(3) - Law Enforcement  
Section 38(2) - Health and Safety

Section 44 is a class based absolute exemption which means there is no requirement to identify the harm or consider the public interest in disclosure.

Section 40 subsections (1) and (2) is a class based exemption, however Section 40(5) is not, as it is not listed in the schedule of absolute exemptions in Section 2(2). When citing Section 40(5), there is a requirement to articulate the public interest to ensure that neither confirming nor denying that information exists is the appropriate response.

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

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

### **Overall harm in Confirming or Denying that Information is held for Question 2(a)&(b)**

Any release under the Freedom of Information Act is a disclosure to the world, not just to the individual making the request. To confirm or not that a child registered on ViSOR attends a mainstream school could lead to the identification or even misidentification of an individual and has the potential to provoke unrest within the community resulting in vigilante type behaviour.

This in turn could potentially lead to a registered sexual offender going 'underground'. PSNI has a duty of care to offenders living in the community as well as victims. As identified above to confirm or not whether children registered on ViSOR currently attend a mainstream school, and to name those schools, could lead to the identification or misidentification of an individual compromised if a registered sexual offender took evasive action by moving locations, no longer fulfilling their requirements to register with the local police and ultimately going on to commit further offences.

### **Public Interest Test**

#### **Factors Favouring Confirmation or Denial complying with Section 1 (1) (a) – Section 40**

Confirmation or denial of whether information is held by PSNI would provide the public with an awareness of what personal information is held with regard to the monitoring of individuals on the ViSOR database.

#### **Factors Against Confirmation or Denial complying with Section 1 (1) (a) – Section 40**

Individuals will expect that any information relating to them, if held by PSNI will be treated in confidence. Confirming or denying the existence of this information would contravene the first principle of the Data Protection Act which states that personal data shall be processed fairly and lawfully and that a public authority must handle people's personal data only in ways that they would reasonable expect. A public authority must handle people's personal data only in ways they would reasonably expect.

#### **Factors Favouring Confirmation or Denial complying with Section 1 (1) (a) – Section 30**

Confirming or denying that information exists pertinent to questions 2(a)&(b) would lead to a better informed public demonstrating that PSNI Public Protection Unit monitor individuals registered on ViSOR proactively 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 complying with Section 1 (1) (a) – Section 30**

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

#### Factors Favouring Confirmation or Denial complying with Section 1 (1) (a) – Section 31

Confirmation that information exists relevant to this request would lead to a better informed public which may encourage individuals to provide intelligence in order to reduce further sexual offences being committed.

#### Factors Against Confirmation or Denial complying with Section 1 (1) (a) – Section 31

PSNI and the Police Service generally, gather intelligence in order to direct police activity through a planned and systemic business process. Law Enforcement tactics would be compromised by confirming or denying that information exists which could hinder the prevention and detection of crime and would lead to more crime being committed. Further, as more offences are committed police resources would be affected as officers are taken from the frontline and directed into ongoing investigative operations, some of which may be covert.

As detailed within the harm, disclosure of the information would also undermine the partnership approach to law enforcement, in this case the Multi Agency Public Protection Arrangements which are run in liaison with the Police Service, Prison Service and Probation Service which focuses on monitoring individuals registered on ViSOR to stop them reoffending, as well as the investigative process in order to stop them reoffending.

#### Factors Favouring Confirmation or Denial complying with Section 1 (1) (a) – Section 38

The public are entitled to know how the PSNI allocate public funds therefore this would lead to a better informed public awareness and debate, and would also identify how public funds are being spend with regard to the safety of individuals.

#### Factors Against Confirmation or Denial complying with Section 1 (1) (a) – Section 38

Any information, no matter how generic, which would assist individuals in their offending behaviour, would undoubtedly be a risk to the safety of the generic public. In addition, confirmation or denying of information which is designed to safeguard the public is also likely to lead to a loss of confidence in PSNI ability to protect the wellbeing of the community.

### **Decision**

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we service. As part of that policing purpose, information is gathered which can be highly sensitive relating to a category of individuals who commit sexual offences.

Confirmation that information is held would undoubtedly provide a greater openness and transparency to the community at large with regard to children registered on ViSOR. However we must also remember that the Police Service, including PSNI, complies with the Multi Agency Public Protection Arrangements which are a set of arrangements to manage the risk posed by the most serious sexual and violent offenders (MAPPA eligible offenders) under the provisions of the Criminal Justice Act 2003. A report is published annually to demonstrate accountability to members of the public for the work undertake by the Police, Probation and Prison Service and to reassure the community that this work is being done well.

In addition, we also need to take into account the victims of crime. Public safety is of paramount importance and any information which would place individuals at risk, no matter how generic, is not in the public interest. The effective delivery of operational law enforcement is crucial to ensure PSNI target offending behaviour.

However, 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 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](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 PSNI replies under Freedom of Information may be released 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.