



FREEDOM OF INFORMATION REQUEST



Request Number: F-2014-04133

Keyword: Human Resources

Subject: Unmanned Aerial Vehicles

Request and 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 1–3 and 5-6 in full; and
- fully exempt information in response to questions 4 and 7-to 9 pursuant to the provisions of Sections 31 and 43 of the Act.

Question 1

What legal mandate does your police force have to use unmanned aerial vehicles (UAVs) in the United Kingdom?

Answer

UAVs are operated in line with current CAA regulations.

Question 2

Has your police force considered using UAVs operationally?

Answer

Yes.

Question 3

How many times has your police force used UAVs in a trial context, from January 1st 2008 to the date of this request?

Answer

The PSNI have never used UAVs in a trial context. UAV systems have been demonstrated by manufacturers on a number of occasions.

Question 4

How many times has your police force used UAVs in an operational context, from January 1st 2008 to the date of this request?

Answer

Section 17(1) 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 exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

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

Section 31 is a qualified and class-based exemption and the legislators have determined that it is necessary to evidence the harm in release as well as conducting a public interest test.

Harm Test

Section 31

The release of information in respect of the number of times a UAV has been deployed operationally would reveal the capabilities of these resources and give important information to criminals. To give any indication of the frequency with which this resource is used operationally would be of direct use to anyone intent on criminal activity. The release of this information would allow criminals to identify the strengths and weakness of this resource and they would be able to use this information in planning criminal acts. Release of this information would impact on the prevention and detection of crime and the apprehension of criminals by the PSNI.

Public Interest Test

Factors favouring release - Section 31

There is a strong public interest in how the PSNI engages with its law enforcement role and release of this information would better inform the public how the PSNI is utilising resources to fulfil this responsibility. Release of the number of times a UAV has been deployed operationally could reassure the public that the PSNI is actively engaging with its law enforcement role in seeking to prevent and detect crime.

Factors favouring retention - Section 31

Disclosure could reveal resource levels and capabilities within the PSNI. To disclose the number of times this important resource has been used would compromise law enforcement tactics which could lead to more crime being committed and individuals being placed at risk. It may also be used by criminals/terrorists in combination with other information they have gathered to try and prejudice law enforcement.

Decision

Whilst there is a public interest in the way the PSNI uses the resources at its disposal to engage with its law enforcement role the Service will not release information that would adversely impact on this role. Disclosing the requested information would adversely impact on law enforcement and give important information to individuals or groups who are intent on criminal activity and who could use the information to avoid detection by planning measures to counter this tactic.

Question 5

For what purpose has your police force used UAVs, from January 1st 2008 to the date of this request? i.e. firearms incidents

Answer

UAVs have been used for scene management, search and rescue and public order support.

Question 6

How many UAVs has your police force owned, from January 1st 2008 to the date of this request?

Answer

The PSNI has a total of 9 Unmanned Aerial Vehicles.

Question 7

How much has been spent by your police force on UAVs in total, from 1st January 2008 to the date of this request?

Question 8

How much has been spent by your police force on the maintenance of UAVs, from 1st January 2008 to the date of this request?

Question 9

How much has been spent by your police force on the purchase of UAVs, from 1st January 2008 to the date of this request?

Answer

Section 17(1) 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:

- (d) states that fact,
- (e) specifies the exemption in question and
- (f) states (if not otherwise apparent) why the exemption applies.

The exemption/s, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 31(1)(a)(b) – Law Enforcement
Section 43(2) – Commercial Interests

Section 31 is a qualified and prejudice-based exemption which means that there is a requirement to evidence the harm in release and also conduct a public interest test.

Section 43 is a class-based, qualified exemption which means the legislators have agreed there would be harm if this information was released and a Public Interest Test must be carried out.

Harm Test

Section 31

The release of information in respect to the purchase cost of the UAVs would reveal the capabilities of these resources and give important information to criminals. This is so because the release of this information combined with detailed information readily available on the internet would allow criminals to identify the aircraft along with its strengths and weakness. They would then be able to use information in planning criminal acts. This would therefore both directly and indirectly impact on the prevention and detection of crime and the apprehension of criminals by the PSNI.

Public Interest Test

Factors favouring release - Section 31

There is a strong public interest in how the PSNI engages with its law enforcement role and particularly in times of budgetary constraint that the PSNI has sought best value when purchasing this resource. Release of this information would therefore better inform the public how the PSNI is investing in resources to fulfil its law enforcement responsibility.

Factors favouring retention - Section 31

Disclosure could reveal the capabilities and any possible weakness of the UAVs. To disclose this would compromise law enforcement tactics which could lead to more crime being committed and individuals being placed at risk. It may also be used by criminals/terrorists in combination with other information they have gathered to try and prejudice law enforcement.

Factors Favouring Release For Section 43

There is a keen public interest in how public authorities spend taxpayers' money and that value for money is achieved. Therefore releasing this information would facilitate the accountability and transparency of public authorities in how they spend public money and disclosure of the requested information would better inform the public that the PSNI is seeking best value for money.

Factors Favouring Retention For Section 43

The PSNI's commercial interests could be prejudiced if details of financial negotiations were disclosed and disclosure of confidential negotiations could damage the business reputation of the Service. Disclosure could discourage other companies from submitting commercially sensitive information and consequently undermine the ability of the PSNI to procure best value for public funds. Companies may lose confidence in the PSNI, compromising their integrity and causing a detrimental impact on the reputation of the Service. Disclosing the cost would be of direct use to business competitors of the company from whom the UAS were purchased and could also impact adversely on their ability to negotiate similar sales contracts.

Decision

While there is a strong public interest in how public money is being spent and how the PSNI is dealing with its law enforcement role the PSNI has a duty to deliver effective law enforcement. Criminal elements could use this information to evade police, directly undermining their law enforcement role.

As discussed above the release of operational data on police resources into the public domain has the potential to assist criminal elements to carry out their criminal activities. The PSNI will not divulge any information which could hinder the prevention and detection of crime and also adversely impact on the apprehension and prosecution of offenders.

Partial NCND

In addition the PSNI neither confirms nor denies that it holds any other information relevant to your request by virtue of the following exemptions:

Section 23(5) – Information supplied by, or concerning, certain security bodies

Section 24(2) – National Security

Section 31(3) – Law Enforcement

Section 23 is an absolute class-based exemption and therefore there is no requirement to conduct a harm or public interest test.

Sections 24 and 31 are prejudice based and qualified exemptions. This means that there is a requirement to articulate the harm that would be caused in confirming or denying that any other information is held as well as conducting a public interest test.

Harm for the partial NCND

As you may be aware, disclosure under FOIA is a release to the public at large. Whilst not questioning the motives of the applicant, confirming or denying that any other information is held regarding the use of this specialist equipment would show criminals what the capacity, tactical abilities and capabilities of the force are, allowing them to target specific areas of the UK to conduct their criminal/terrorist activities. Confirming or denying the specific circumstances in which the police service may or may not deploy UAV's, would lead to an increase of harm to covert investigations and compromise law enforcement. This would be to the detriment of providing an efficient policing service

and a failure in providing a duty of care to all members of the public.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006, the UK Government have published the threat level, based upon current intelligence and that threat has remained at the second highest level, 'severe', except for two short periods during August 2006 and June and July 2007, when it was raised to the highest threat, 'critical', and in July 2009, when it was reduced to 'substantial'. Nevertheless, the UK continues to face a sustained threat from violent extremists and terrorists and the current UK threat level is set at 'substantial'.

It is well established that police forces use covert tactics and surveillance to gain intelligence in order to counteract criminal behaviour. It has been previously documented in the media that many terrorist incidents have been thwarted due to intelligence gained by these means.

Confirming or denying that any other information is held in relation to UAV's would limit operational capabilities as criminals/terrorists would gain a greater understanding of the police's methods and techniques, enabling them to take steps to counter them. It may also suggest any limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing potential vulnerabilities. This detrimental effect is increased if the request is made to several different law enforcement bodies. In addition to the local criminal fraternity now being better informed, those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those committing crimes. This would have the likelihood of identifying location-specific operations which would ultimately compromise police tactics, operations and future prosecutions as criminals could counteract the measures used against them.

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 these activities will adversely affect public safety and have a negative impact on both national security and law enforcement.

Section 24

Factors favouring NCND

The information if held simply relates to national security and confirming or denying whether it is held would not actually harm it. The public are entitled to know what public funds are spent on and what security measures are in place, and by confirming or denying whether any other information regarding UAV's is held would lead to a better-informed public.

Factors against NCND

By confirming or denying whether any other information is held would render Security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

Section 31

Factors favouring NCND

Confirming or denying whether any other information is held would provide an insight into the police service. This would enable the public to have a better understanding of the effectiveness of the police and about how the police gather intelligence. This would greatly assist in the quality and accuracy of public debate, which could otherwise be steeped in rumour and speculation. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

Some information is already in the public domain regarding the police use of this type of specialist equipment and confirming or denying whether any other information is held would ensure transparency and accountability and enable the public to see what tactics are deployed by the Police Service to detect crime.

Factors against NCND

Confirming or denying that any other information is held regarding UAV's, would have the effect of compromising law enforcement tactics and would also hinder any future investigations. In addition, confirming or denying methods used to gather intelligence for an investigation would prejudice that investigation and any possible future proceedings.

It has been recorded that FOIA releases are monitored by criminals and terrorists and so to confirm or deny any other information is held concerning specialist tactics would lead to the law enforcement being undermined. The Police Service is reliant upon all manner of techniques during operations and the public release of any *modus operandi* employed, if held, would prejudice the ability of them to conduct similar investigations.

By confirming or denying whether any other information is held in relation to UAV's would hinder the prevention or detection of crime. The Police Service would not wish to reveal what tactics may or may not have been used to gain intelligence as this would clearly undermine the law enforcement and investigative process. This would impact on police resources and more crime and terrorist incidents would be committed, placing individuals at risk. It can be argued that there are significant risks associated with providing information, if held, in relation to any aspect of investigations or of any nation's security arrangements so confirming or denying that any other information is held, may reveal the relative vulnerability of what we may be trying to protect.

Balance Test

The security of the country is of paramount importance and the Police service will not divulge whether any other information is or is not held if to do so would place the safety of an individual at risk, undermine National Security or compromise law enforcement. Whilst there is a public interest in the transparency of policing operations and providing assurance that the police service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police investigations and operations in the highly sensitive areas such as extremism, crime prevention, public disorder and terrorism prevention. As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. The areas of police interest is a sensitive issue that reveals local intelligence therefore it is our opinion that for these issues the balancing test for confirming or denying whether any other information is held regarding UAV's, is not made out.

However, this should not be taken as necessarily indicating that any information that would meet your request 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.

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.psnj.police.uk

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