



FREEDOM OF INFORMATION REQUEST



Request Number: F-2014-00059

Keyword: Operational Policing

Subject: Schedule 7 Of The Terrorism Act 2000

Request and Answer:

Question 1

The number of people stopped at any relevant UK ports and airports under your remit using Schedule 7 of the Terrorism Act 2000.

Question 2

Figures regarding the number of these people who were subsequently:

- a) Arrested
- b) Charged
- c) Released

Question 3

A record of the reason these people were stopped.

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(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:

Exemptions applied to answer for questions 1-2

Section 31(1)(a)(b) – Law Enforcement
Section 24(1) – National Security

Exemptions applied to answer for question 3

Section 30(1)(a) – Investigations

Section 24(1) – National Security

Section 40(2)(a)(b) by virtue of Section 40(3)(a)(ai) – Personal Information

Section 40, Personal Information, is an absolute exemption which means there is no requirement on the Public Authority to consider whether there is a public interest in disclosure. This is so because personal data is governed by other law (The Data Protection Act 1998). A disclosure under the Freedom of Information Act is a release of information to the world in general and not just to the individual applicant.

Section 40 (3) (a) (i) of FOIA provides an exemption from the right to know where the information requested is personal data and is protected by the Data Protection Act if its disclosure to a member of the public would contravene any of the Data Protection Principles (section 40(3)(a)(i)). This particular exemption is absolute, which means there is no requirement on the PSNI to consider an additional public interest test.

Taking into account all of the circumstances relating to your request PSNI considered whether any of the Data Protection Principles would be breached if this information was to be released. We specifically considered the first data protection principle which requires PSNI to only release information if it is 'fair and lawful' to do so. By providing you with the information, we would be revealing personal information about individuals. Taking into account the nature of the information and the consequences such a disclosure may have, we are of the view it would not be within their reasonable expectations that we would do this. PSNI have therefore determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached.

Sections 24 and 31 are qualified prejudice-based exemptions and there is a requirement on the public authority to evidence the harm in release and also to conduct a public interest test. Section 30 is a qualified class-based exemption and there is a requirement to undertake a public interest test.

The Harm and Public Interest Tests are detailed below.

Harm

The release of Schedule 7 examination data which is specific to a police service or is port specific would have a prejudicial and detrimental effect in preventing terrorist acts in the UK and also in deterring terrorists from entering the UK. The release of data specific to each policing area would allow individuals intent on criminal activity to identify perceived vulnerable points of entry to the UK. Those wishing to enter the UK would be able to analyse this data and identify ports where they believe it is less likely that they would be subject to a Schedule 7 examination.

The provisions of S24(1) and S31(1) are inextricably linked in this case. Schedule 7 is only used for the purposes of countering terrorism as part of CT policing activity in support of the Government's Counter Terrorism Strategy, CONTEST. The release of this information would have a direct impact on the capability and effectiveness of national counter terrorism policing and the successful delivery of CONTEST policing objectives. There is an inherent and fundamental link between the need to safeguard matters relating to national security and the potential to prejudice the ability of the police service to prevent and detect crime, and to apprehend and prosecute offenders.

The Home Office Counter Terrorism statistics publication for 2012-2013 is available at the link below.

- <https://www.gov.uk/government/publications/operation-of-police-powers-under-the-terrorism-act-2000-2012-to-2013/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-arrests-outcomes-and-stop-and-searches-great-britain-2012-to-20>

The data table containing the schedule 7 data link is also available on the above page and can be accessed via the link below.

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236939/operation-police-powers-terrorism-1213-tabs.ods. Schedule 7 data can be found on sheet 'S_06' of this spreadsheet.

Additionally, a detailed analysis of Schedule 7 examination data, including the length of examinations, can be found in Section 10 of the David Anderson Q.C. Report - Report Of The Independent Reviewer On The Operation Of The Terrorism Act 2000 And Part 1 Of The Terrorism ACT 2006 Of July 2013.

- https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2013/07/Report-on-the-Terrorism-Acts-in-2012-FINAL_WEB1.pdf

Public Interest Test

Factors Favouring Disclosure for S24

The information simply relates to national security and disclosure would not actually harm it. The public are entitled to know how effective the legislation is in protecting national security and also how public funds are spent. By disclosing this information the public would be able to see where public money is being spent and know what the PSNI are doing to combat terrorism.

Factors Favouring Non-Disclosure for S24

If the requested information were disclosed it 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. The risk of harm to the public would be increased if the location of vulnerable areas of the UK were made public as this would provide opportunity for terrorist planning. Ongoing or future operations to protect the security or infrastructure of the UK would be compromised as terrorists could map across the country the level of counter-terrorist activity, giving them the knowledge of force's individual capabilities.

Factors Favouring Disclosure for S31

By disclosing the information the public would see where public funds are being spent and would be able to take steps to protect themselves and their families. Better public awareness may reduce crime or lead to more information from the public as they would be more observant in reporting suspicious activity.

Factors Favouring Non-Disclosure for S31

By disclosing the information law enforcement tactics would be compromised which would hinder the prevention and detection of terrorist crime. More crime would be committed because the terrorists would know which forces had less Counter Terrorist capability and capacity and individuals would therefore be placed at higher risk. A fear of crime would be realised because if the terrorists identified 'softer' border entry points, they would target and exploit these areas and the public would be in fear of more terrorist activity occurring. There would be an impact on police resources because if the number of Schedule 7 stops was disclosed per force, the more vulnerable forces may need to increase their resources to reassure and protect the community.

Factors Favouring Disclosure for S30

The release of this information would reassure the public that Schedule 7 of The Terrorism Act 2000 was being used appropriately by the PSNI in its investigative duties.

Factors Favouring Non-Disclosure for S30

To release the requested information on the reasons for the Schedule 7 examination would adversely affect ongoing and future investigations by releasing prematurely information which is held for the purposes of an investigation and possible criminal proceedings. This may lead to trial by media and

adversely impact on the administration of justice.

Release, when combined with other information which may be available on the internet now or may become available, may also provide those intent on terrorist activity with important intelligence information. Information on what triggered a Schedule 7 examination would allow terrorists to take initiate measures to avoid detection.

Balance test

The security of the country is of paramount importance and the Police service will not divulge information if to do so would place the safety of an individual at risk or undermine National Security. The Police Service's overriding priority is to keep the public safe by working together with all our communities to defeat terrorism.

Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed by a terrorist attack, there is a very strong public interest in safeguarding both National Security and the integrity of police investigations and operations in the highly sensitive area of terrorism.

As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of National Security there is also a strong public interest in Law Enforcement and the protection of the infrastructure of the UK from terrorist activities. Schedule 7 and other counter terrorism measures are high-profile sensitive issues and are of intelligence value to the terrorist. Therefore it is our opinion that for these issues the balancing test for disclosing the information requested is not made out.

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.