



FREEDOM OF INFORMATION REQUEST



Request Number: F-2014-04566

Keyword: Organisational Information/Governance

Subject: Purchase of Software or Services

Request and Answer:

Question 1

During the financial years 2010-2013, has your force purchased software or services from Gamma Group International -

<https://www.gammagroup.com/Default.aspx>

Question 2

If so, what was the value of those orders?

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

Section 24(2) – National Security

Section 31(3) - Law Enforcement

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest test in this area.

Sections 24 and 31 are prejudice based qualified exemptions and 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.

The overall harm for the NCND is as follows:

Any disclosure under FOIA is a disclosure to the world at large, and confirming or denying whether the Police Service of Northern Ireland have purchased software or services from Gamma Group International, would enable criminals to map across the country which forces use specialist policing techniques from this company. Disclosure of purchase information about a company which produces surveillance techniques, which a force may or may not have, and which (should they exist) the police service may or may not deploy in specific circumstances would prejudice law enforcement.

If the requested information was held by the force, confirmation of this fact would reveal that the police have access to sophisticated communications analysis techniques. This would be damaging as it would (i) 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; and (ii) provide an indication to any individual who may be undertaking criminal/terrorist activities that the police service may be aware of their presence and taking counter terrorist measures.

Conversely, if information was not held by the force, and a denial was issued, this would reveal to those same individuals that their activities are unlikely to have been detected by the police. It may also suggest (whether correctly or not) the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing a potential vulnerability. Disclosure of the information could confirm to those involved in criminality or terrorism that they are or have been the subject of such activity, allowing them to gauge the frequency of its use and to take measures to circumvent its use. For example, this could lead to them moving their operations, destroying evidence, or avoiding those areas, ultimately compromising police tactics, operations and future prosecutions. Any compromise of, or reduction in technical capability by forces would substantially prejudice the ability of forces to police their areas which would lead to a greater risk to the public.

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 criminals and terrorists.

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.

Factors favouring confirming or denying whether any other information is held for Section 24
The public is entitled to know where their public funds are being spent and a better informed public can take steps to protect themselves.

Factors against confirming or denying whether any other information is held for Section 24
By confirming or denying whether the Police Service of Northern Ireland has purchased anything from Gamma Group which might include specialist techniques, could render Security measures less

effective. This could 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

Factors favouring confirming or denying whether any other information is held for Section 31

Better awareness may reduce crime or lead to more information from the public, and the public would be able to take steps to protect themselves. Some information is already in the public domain.

Factors against confirming or denying whether any other information is held for Section 31

By confirming or denying whether the Police Service of Northern Ireland have purchased any software or services from Gamma Group would compromise law enforcement tactics and undermine the partnership approach which would hinder the prevention or detection of crime. This would impact on police resources, more crime would then be committed and individuals placed at risk.

Balance test

The security of the country is of paramount importance and the Police service will not divulge whether information is or is not held if to do so could undermine National Security or compromise law enforcement. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is spending public money appropriately and effectively whilst engaging with the threat posed by the criminal fraternity, there is a very strong public interest in safeguarding both national security and the integrity of police operations in this area.

As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of national security this will only be overridden in exceptional circumstances.

There is also no requirement to satisfy any public concern over the legality of police operations and the tactics we may or may not use. Forces are already held to account by statute, for example the Police and Criminal Evidence Act and the Regulation of Investigatory Powers Act and independent bodies such as Her Majesty's Inspectorate of Constabulary, the Independent Police Complaints Commission and the Office of the Surveillance Commissioner. Our accountability is therefore not enhanced by confirming or denying whether any information is held.

Therefore it is our opinion that for these issues the balancing test for confirming or denying whether any information is held regarding these techniques is not made out. This argument is obviously transferable to all police tactics.

None of the above can be viewed as an inference that the information you seek 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, and 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, and 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.