



FREEDOM OF INFORMATION REQUEST



Request Number: F-2015-03356

Keyword: Operational Policing

Subject: Helicopter Deployment In North Belfast

Request and Answer:

Question 1

Refinement from F-2015-02625

We would wish the request in respect of Helicopter deployment to be refined to the period between 1 January 2015 and today's date 21 October 2015.

Answer

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland holds information to which your request relates. The decision has been taken to disclose the following information to you.

Normally taskings for the helicopter are recorded against a Policing District and not a specific area but in this instance there is information held for the requested time scale. There were 243 taskings specific to North Belfast for the time frame you have requested. It should be noted that these may not have been the only times the flight path of the helicopter was across North Belfast as the helicopter may have crossed North Belfast to fulfil a tasking in another area of Belfast or in a different district.

Partial NCND

In addition the Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds any other 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. The duty to confirm or deny does not arise if exemption from section (1) (1)(a) is required for the purpose of safeguarding National Security.

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

NCND (Neither Confirm Nor Deny)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption.

In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold any information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf

Section 23(5) of the FOIA states that "the duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied by, or relates to, any of the bodies specified in subsection (3).

The police service in its fight against crime and terrorism may engage at times with the bodies listed at Section 23 of the Act and on occasions there may be information provided to police from one of these bodies. To confirm or deny whether intelligence was used in specific investigations would undermine the PSNI's ability to use intelligence information as an operational tool for investigating crimes including those that may have occurred historically. The NCND response is used to avoid risks caused by providing inconsistent responses to a series of similar requests where the information may originate from a number of sources and not necessarily a security body. As advised above the decision to issue a NCND response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held.

Therefore police services must consistently use 'neither confirm nor deny' in FOI responses to protect occasions where they may hold information in sensitive matters and to place this fact in the public domain would undermine an investigation i.e. an NCND response is used both where:

- (i) there is no recorded information held which falls within the scope of a FOI request.
- (ii) there is recorded information held.

Harm Test For Section 24

Any disclosure under FOIA is a disclosure to the world at large and confirming or denying that any other information is or is not held would prejudice national security.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The current UK threat level from international terrorism, based on intelligence, is assessed as Severe, which means that a terrorist attack is highly likely, see below link:

<https://www.mi5.gov.uk/home/about-us/what-we-do/the-threats/terrorism/threat-levels.html>

In order to counter criminal and terrorist behaviour it is vital that the police have the ability to work together, where necessary covertly, to assist in the investigative process to ensure the successful arrest and prosecution of offenders who commit or plan to commit acts of terrorism.

To achieve this goal, it is vitally important that information sharing takes place between police officers, members of the public, police forces as well as other security law enforcement bodies within the United Kingdom. This information sharing supports counter-terrorism measures in the fight to

deprive terrorist networks of this ability to commit crime.

PSNI publicly acknowledge the use of helicopters within their Air Support Unit, see below link:

http://www.psnipolice.uk/mpr_airsupportunit_2010

To confirm or deny whether any other information is held in this case, would be useful to those involved in criminal and or terrorist activity as it would confirm policing tactics that may or may not be used as part of guarding National Security, i.e. whether or not the police helicopters are used tactically during a criminal or terrorist investigation.

To state that no information is held in one area and then neither confirm nor deny that information is held in another, would in itself provide acknowledgement that the technique is being used in that second area. Inconsistency in the use of a Neither Confirm Nor Deny response would have the likelihood of identifying location-specific operations and enable individuals to become aware of whether their activities have been detected. This in turn could lead to criminals and terrorists moving their operations, destroying evidence, or avoiding those areas of perceived highest risk, ultimately compromising police tactics, operations, future prosecutions and increasing the risk of danger to the public.

Public Interest Test

Factors favouring confirming or denying – Section 24

The public are entitled to know how public funds are spent and resources distributed within an area of policing, particularly with regard to how the police investigate terrorist atrocities. To confirm whether any other information exists in this case would enable the general public to hold the PSNI to account in relation to how they carry out investigations into these types of offences.

In addition confirmation or denial may improve public debate and would assist the public to take steps to protect themselves.

Factors against confirming or denying – Section 24

Taking into account the current security climate within the United Kingdom, no information which may aid a criminal or terrorist should be disclosed. To what extent this information may aid a terrorist is unknown, but it is clear that it will have an impact on a force's ability to monitor criminal and terrorist activity.

Irrespective of what information is or isn't held, the public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain.

The cumulative effect of terrorists gathering information from various sources would have even more impact when linked to information gathered from various sources about terrorism. The more information that is disclosed over time will provide a more detailed account of the tactical infrastructure of not only a policing area but also the country as a whole.

Any incident that results from such a disclosure would by default affect National Security.

Other organisations outside the Police Service are also widely engaged in targeting terrorism, see below links:

<http://www.nationalcrimeagency.gov.uk/news/news-listings/362-nca-unveils-campaign-to-disrupt-the-use-of-airfields-and-light-aircraft-by-organised-criminals>

<https://www.gov.uk/government/policies/counter-terrorism>

<https://www.mi5.gov.uk/home/the-threats/terrorism.html>

Therefore by confirming or denying that any other information exists relevant to this request would harm the close relationship that exists with such organisations, where trust and confidence in this specific area has been built up.

Decision

The points above highlight the merits of confirming, or denying, whether any other information pertinent to this request exists. The security of the country is of paramount importance and the Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve.

As part of that policing purpose, various operations with other law enforcement bodies may or may not be ongoing. The Police Service will never divulge whether or not information is held if to do so would place the safety of an individual(s) at risk or undermine National Security. Whilst there is a public interest in the transparency of policing operations and investigations, providing assurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding National Security. 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.

As advised above the decision to issue a NCND response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying that any other information is held. For all the reasons above I believe that the case for confirming or denying that any other information relevant to this request is not made out and that a Neither Confirm Nor Deny response is the appropriate response in this case.

However, this should not be taken as conclusive evidence that any other information relative to your request 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.psni.police.uk

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

