



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2018-01787

**Keyword:** Crime

**Subject:** Human Trafficking in Newry, Mourne and Down Policing Districts

### Request and Answer:

In relation to this request the Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

#### Request

I was looking to ask the PSNI, through the Freedom of Information act, about the number of human trafficking cases they have had to deal with in the Newry, Mourne and Down Policing District between January 2013 and the present day.

How many cases of human trafficking has the PSNI had to deal with between January 2013 and the present day in the Newry, Mourne and Down Policing District? If possible, I would like a breakdown of how many cases each ward in the Newry, Mourne and Down area had to deal with per year.

What was the nationalities of those involved in human trafficking - either the victims of perpetrators?

How many convictions for human trafficking were carried out as a result of arrests by the PSNI?

#### 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 – confirmation or denial would likely prejudice information directly or indirectly supplied to the public authority by, or relates to, any specified bodies.

Section 30(3) – Investigations – The duty to confirm or deny does not arise in relation to information which if it were held would be exempt information by virtue of subsection (1) or (2).

Section 31(3) - Law Enforcement - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).

Section 38(2) Health and Safety - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would or would be likely to, have either of the effects mentioned in subsection (1).

Section 40(5)(a)(b)(i) Personal Information - The duty to confirm or deny does not apply if to do so would contravene any of the Data Protection Principles.

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

#### 'Neither Confirm nor Deny' (NCND)

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 the 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](https://ico.org.uk/media/for-organisations/documents/1166/when-to-refuse-to-confirm-or-deny-section-1-foia.pdf)

Section 40 is an absolute Class-based exemption and therefore it is not necessary to carry out a public interest test in this case.

Due to the specific nature of this FOI request, to confirm or deny that the PSNI hold any of the requested information would in fact confirm information which is personal to an individual. The release of information under Freedom of Information (FOI) is deemed as a release into the public domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

Therefore this would amount to a release into the public domain of personal information about individuals. The individuals would have no expectation that these details would be released into the public domain, **therefore their data protection rights would be breached by release.** As a result

of this the PSNI can neither confirm nor deny that it holds any of the requested information.

Section 23 is an absolute class based exemption which means there is no requirement to show the harm that would be caused by confirming or denying that any other information is held or to conduct a public interest test.

Section 1(1) (a) of the Act requires a public authority to confirm whether it holds the information that has been requested. Section 23(5) provides an exemption from this duty. Section 23(5) of the FOIA states that “the duty 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 FOIA and on occasions there may be information provided to police from one of these bodies. 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. 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.

### **Harm in Confirming or Denying that Information is Held**

Any release under FOIA is a disclosure to the world, not just to the individual making the request. Police forces work in conjunction with other agencies and on a daily basis information is freely shared in line with information sharing protocols. Modern day policing is intelligence led and this is particularly pertinent with regard to law enforcement.

Where Section 30(3) applies, PSNI neither confirm nor deny it holds information relating to investigations or proceedings, this is subject to a public interest test. The ability to neither confirm nor deny, can only be maintained in the public interest if confirmation or denial would interfere with the effective conduct of the investigations or proceedings. Similarly the NCND provision under Section 31(3) and its equivalent under section 30(3) are not mutually exclusive; they can both be claimed in respect of the same information.

The public expect police forces and other law enforcement agencies, which may or may not include agencies outside of the United Kingdom, to use all powers and tactics available to prevent and detect crime or disorder and maintain public safety. Police forces work in conjunction with other agencies and as stated above information is freely shared within these agencies in line with any current information sharing agreements and legislative requirements.

In addition, if information were held, it would fall within the scope of Section 38 of the FOI Act, as it could impact the physical or mental health of individuals, family members, friends or relatives or potentially endanger their safety.

### **Public Interest**

#### Section 30 - Factors Favouring Confirmation or Denial

There is a public interest in the transparency of policing operations and to provide assurance that the PSNI is appropriately and effectively dealing with crime. Confirming or denying that information exists relevant to this request would lead to a better informed public demonstrating that PSNI undertake evidence gathering appropriately and in line with current legislation in order to assist criminal investigations.

#### Section 30 - Factors Against Confirmation or Denial

Confirmation or denial would highlight that police resources are being utilised to focus on specific areas of criminal activity. Whilst there is a public interest in the transparency of policing operations and providing assurance that PSNI is appropriately and effectively dealing with crime, there is a

strong public interest in safeguarding the integrity of police investigations and operations and in maintaining confidence in the Police Service.

#### Section 31 - Factors Favouring Confirmation or Denial

Confirmation or denial could promote public trust in providing transparency, demonstrating openness and accountability.

#### Section 31 - Factors Against Confirmation or Denial

A confirmation or denial that information is held would impact police intelligence. The PSNI take their responsibility to obtain and gather firm evidence as part of their investigative process seriously in that it is only ever obtained as per current legislative frameworks to aid the delivery of effective law enforcement and the harm to the law enforcement capability outweighs the need to confirm or deny.

#### Section 38 - Factors Favouring Confirmation or Denial

Confirmation or denial would demonstrate openness and transparency and allow for a better informed public.

#### Section 38 - Factors Against Confirmation or Denial

Confirmation or denial of this information has the potential to place individuals at risk of reprisal/attack.

### **Decision**

Confirmation or denial of whether the PSNI hold any other information would amount to a release of information either on this occasion or on other occasions where a similar request is made. A disclosure of information under Freedom of Information is a release to the world in general and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

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 from criminals, there is a very strong public interest in safeguarding the integrity of police investigations and operations.

Taking into account the current security climate within the United Kingdom, information which may aid criminal elements should not be disclosed. To what extent information may aid criminals/terrorists is unknown, but it is clear that it would impact on a force's ability to monitor criminal/terrorist activity.

Irrespective of what information is or is not 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 criminals/terrorists gathering information from various sources would have even more impact when linked to other information gathered from various sources about criminality/terrorism.

The effective delivery of operational law enforcement takes priority and is at the forefront of PSNI to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained. Weakening the mechanisms used to monitor and investigate any type of criminal activity and specifically terrorist activity would place the security of the country at an increased level of danger.

In addition, PSNI will not confirm or deny the existence of any information if it would be likely to endanger the physical or mental health of any individual or the safety of any individual. Any disclosure by PSNI, no matter how generic, would undermine any trust or confidence individuals have in us, therefore, at this moment in time it is our opinion that for these issues the decision favours neither confirming nor denying that the requested information is held.

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.psnipolice.uk](http://www.psnipolice.uk)

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