



FREEDOM OF INFORMATION REQUEST



Request Number: F-2018-02764

Keyword: Organisational Information/Governance

Subject: Money Spent On Informers

Request and 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 does hold some information to which your request relates and this is being provided to you. We further consider the information you seek in relation to Request 2 is exempt by virtue of section 30 of FOIA and have detailed our rationale as to why this exemption applies. We have also provided you with links to guidance issued by the Information Commissioner's Office which we have followed in responding to your request.

Request 1

For the PSNI to provide details of the amount of money they have spent on informers in each of the last 5 years?

Answer

The figures for the last four complete financial years are as under:

2014/2015 – £375,730

2015/2016 – £297,158

2016/2017 – £271,387

2017/2018 – £287,290

Request 2

Figures for 2018 to date (i.e. current 2018/2019 financial year)

Your Request 2 has now been considered and the decision has been taken not to supply the information you have requested. Below is the rationale as to why this exemption applies.

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

Section 30(2)(b) – it relates to the obtaining of information from confidential sources

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

Section 30 is a class based qualified exemption which means there is no requirement to articulate the harm that would be caused in releasing the requested information, however, the public interest must be considered to ensure that withholding the information is the appropriate response.

Public Interest Test

Section 30 - Factors Favouring Release

There is information within the public domain confirming that police use covert human intelligence sources (CHIS) to assist them with investigations and the effective delivery of law enforcement. Disclosure would enhance the public's knowledge about how information relating to informants is used by PSNI and how the intelligence received assists in day to day investigations and operations to assist the prevention and detection of crime; the apprehension and prosecution of offenders and the administration of justice. Disclosure would also assist in stopping any incorrect rumours or falsehoods relating to how the police store and manage how informants assist the police.

Section 30 - Factors Against Release

Disclosure of the information requested could identify informant activity within a force area. Over a period of time if several disclosures were made, individuals could analyse the information and identify any sudden peaks or troughs in informant activity. This would hinder the prevention and detection of crime and also prejudice our ability to maintain confidential sources. Consequently, the force's future law enforcement capabilities would be affected.

Decision

There is information within the public domain confirming that police use covert human intelligence sources to assist them with investigations and the effective delivery of law enforcement. The Police Service is tasked with protecting the community we serve and solving crime and there is a public interest argument in ensuring we are open and transparent with regard to policing investigations and operations. There is no doubt that for the issues outlined above any disclosure relating to sensitive informant information would jeopardise those important roles.

As has been mentioned informants play a vital role in assisting the police, and is based very much on relationships built on trust and the expectation of complete confidentiality. PSNI would never disclose information which would compromise our tactics.

It is therefore our opinion that the balance lies in favour of non-disclosure of the information.

PSNI can neither confirm nor deny that it holds any other information relevant to this request as the duty in Section 1(1)(a) of the Freedom of Information 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, or to the extent that, exemption from section 1(1) (a) is required for the purpose of safeguarding national security.

Section 30(3) - Investigations – the duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of

subsection (1) or (2)

Section 23(5) is an absolute exemption and there is no requirement to consider the public interest in this case.

Section 24(2) is a qualified exemption and as such there is a requirement to evidence any harm confirmation or denial that any other information is held as well as consider the public interest.

Section 30(3) is a class based and qualified exemption and there is a requirement to consider the public interest to ensure neither confirming nor denying any other information is held, is appropriate.

The above quoted total payments to informants does not include any payments made to informants where funding may have been supplied by exempt bodies.

Harm for neither confirming nor denying that any other information is held for Section 24

Disclosure of informants data could impact on the recruitment and retention of CHIS in general, due to the perception of (rather than the actual) risk of identification. In an Information Tribunal case relating to the payments made to CHIS in Croydon (EA/2010/0006), it was accepted that this argument applied as much to CHIS providing intelligence in relation to national security concerns as to CHIS engaged in countering more traditional criminal threats. In this way, the disclosure of payment information would damage national security through discouraging current national security CHIS from cooperating with the police service in other geographical areas, or preventing the recruitment of national security CHIS in the future – regardless of whether the area in question actually currently runs CHIS reporting on serious crime, terrorist or other threats.

Public Interest Test

Factors favouring confirming or denial held - Section 24

Confirmation or denial that any other information exists relevant to the request would lead to a better informed public and the public are entitled to know how public funds are spent. The information simply relates to national security and disclosure would not actually harm it.

Factors against confirming or denial - Section 24

Other organisations outside the police service are also widely engaged in rewarding informants in a number of ways, and therefore by confirming or denying that any other information exists relevant to the request would harm the close relationship that exists with such organisations, where trust and confidence in this specific area has been built up in the exchange of information and financial assistance during the Criminal Justice process.

To confirm or deny whether PSNI hold any additional information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place in a given area. This could enable terrorist groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

By confirming or denying any policing arrangements of this nature would render national 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.

Factors favouring confirming or denial - Section 30

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Confirming that information exists could promote public trust in providing transparency and demonstrating openness and accountability into how the investigation took place. It could also provide reassurance to the public that the police service takes all reports of a crime seriously and conducts investigations appropriately. To confirm could allow the public to have a better understanding of the effectiveness of the Police Service.

Factors against confirming or denial – Section 30

By its very nature information held relating to informants is sensitive in nature. Under FOI there is a requirement to comply with S1(1)(a) and confirm what information is held. In some cases it is that confirmation, or not, which could disclose facts harmful to informants. In some cases there mere existence can place individuals in grave danger. The only methodology which will provide the required degree of protection to those individuals is if the force takes advantage of its ability under FOI legislation to, when appropriate, not confirm or deny that the information requested, is or is not held. The Police Service will never disclose information which could identify investigative activity and therefore undermine their investigations. To do so would hinder the prevention or detection of crime.

Decision

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. 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 would place the safety of an individual at risk or undermine National Security and 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 terrorist / criminals, there is a very strong public interest in safeguarding both national security and the integrity of police investigations and operations in this highly sensitive 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.

No inference can be drawn from this refusal that other information is or is not held.

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.

