



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2021-00640

**Keyword:** Organisational Information/Governance

**Subject:** Address Information

### Request and Answer:

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

### Request

(Named Person) will be on the sex offenders register and thus must notify PSNI of his address. Our client wishes to pursue a civil claim for damages against (Named Person) and our request is for the release of (Named Person's) current address to enable court proceedings to be served on him?

### 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 40 (5B) (a) (i) – Personal Information - the duty to confirm or deny does not arise if to do so would contravene any of the data protection principles.**

**Section 38 (2) – Health & 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 likely endanger the safety of an**

**individual.**

**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).**

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 a class-based exemption, therefore it is not necessary to evidence the harm caused by disclosure nor is it necessary to carry out a public interest test in this case.

Sections 31 and 38 are prejudice-based and qualified exemptions which means that the public authority must demonstrate the harm in confirming or denying that the information exists and carry out a public interest test.

#### **Section 40(5B)(a)(i) - Personal Information**

The release of information under Freedom of Information (FOI) is 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.

To confirm or deny that PSNI hold or do not hold information would in fact confirm information about an individual. This would amount to a release into the public domain of personal information about an individual and likely to cause distress. The individual would have no expectation that these details would be released into the public domain; therefore PSNI would breach its data protection obligations and be unfair to individuals.

#### **Harm for NCND**

Whilst there is a public interest in the transparency of policing, providing assurance that the Police Service is appropriately and effectively engaging with the threat from criminals, this should be countered against the need to protect vulnerable areas, and ongoing Policing operational activity. To confirm or deny that this information is held may endanger the safety of residents living in this area. If PSNI confirm that information is held and an individual who lives in or near this specific area is suspected to be on the sex offenders register then there is a likelihood of reprisals from members of the local community.

## **Public Interest Test**

### Factors Favouring Confirmation or Denial -Section 38 (2)

Confirmation or denial of the existence of the information would allow for better informed public awareness and debate and would assist the public in deciding whether they should take steps to protect themselves.

### Factors Against Confirmation or Denial -Section 38 (2)

Confirmation or denial of this information would create a significant risk to residents in the area who may be suspected of being sex offenders. Potentially there is a likelihood of reprisals/attacks against those suspected of being on the sex offenders register.

### Factors Favouring Confirmation or Denial - Section 31(3)

Confirming or denying whether any information is held would provide an insight into the police service. This would enable the public to have a better understanding of the effectiveness of the police. It would greatly assist in the quality and accuracy of public debate, which could otherwise be steeped in rumour and speculation. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

### Factors Against Confirmation or Denial - Section 31(3)

By confirming or denying whether information is held could compromise law enforcement tactics, which would hinder the prevention and detection of crime and impact on police resources which may need to be increased to reassure the public and protect the surrounding community. This would result in more risk to the public and consequently require the use of more police resources. Vulnerable areas could be identified by disclosure, leading to more criminal activity placing the public in harm's way.

## **Decision**

The security of the country is of paramount importance and the Police service will not divulge whether any other information is or is not held as to do so would place the safety of an individual at risk, undermine or compromise law enforcement. Whilst there is a public interest in the transparency of policing and providing assurance that the police service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in knowing that policing activity is appropriate and balanced which will only be overridden in exceptional circumstances.

Confirmation or denial of whether the PSNI hold this information would amount to a release of information whether on this occasion or on other occasions where a similar request is made for details of registered sex offenders residing in a certain area. No release under FOI should be made where an individual's data protection rights would be breached as not only would this be a breach of Data Protection legislation by the PSNI, but it would also leave the PSNI open to action against it by any individuals concerned.

In addition, the PSNI will not confirm or deny the existence of any information if this would be likely to endanger the physical or mental health of any individual or the safety of any individual. The Public Interest therefore must favour neither confirming nor denying that the information is held.

## **Advice and Assistance**

Under Section 16 of the FOIA PSNI will always try to assist you to refine your request and provide advice where we can. In compliance with Section 16 of the Act, PSNI Occurrence Case Management Team (OCMT) may be able to assist in answering your request. PSNI OCMT has advised that they will only release this information on receipt of a Court Order compelling PSNI to do so.

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 Corporate Information Branch, 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 Corporate Information Branch, 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.psni.police.uk](http://www.psni.police.uk)

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