

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2021-00676

**Keyword:** Organisational Information/Governance

**Subject:** Contract Register

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1) (a) of the Freedom of Information Act (FOIA), we 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 that within this information, there is some detail that is exempt by virtue of sections 31, 38 and section 44 of FOIA. This as you will see is in relation to information which can identify suppliers and contractors to PSNI, as well as information which would compromise PSNI's law enforcement capability. We have detailed our rationale as to why these exemptions apply. 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

I want to submit a request for some information from the organisation, in relation to their contract's register.

The FULL contract register should display all the organisations existing/live contracts I would like the register to display the following columns/headings:

1. Contract Reference -Unique reference number associated with the contract.
2. Contract Title
3. Procurement Category –Please state the category name of the contract, I wish to know the category the contract is under.
4. Supplier Name
5. Spend (Total or Annual)
6. Contract Duration
7. Contract Extensions
8. Contract Starting Date
9. Expiration Date
10. Contract Description [Please provide me with as much detail as possible.]
11. Contact Owner (Full contact details if possible.)
12. CPV codes/ProClass

## Answer

In response to your request, please see attached the excel spreadsheet entitled "PSNI Contract Register". PSNI is providing this to you subject to redactions made under the FOI Act.

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

**Section 31 Law Enforcement: 31(1) (a) the prevention or detection of crime, 31(1) (b) the apprehension or prosecution of offenders.**

**Section 38 (1) (b) – Health & Safety – Information is exempt information if its disclosure under this Act would, or would be likely to (b) endanger the safety of any individual.**

**Section 44(1) (a) Disclosures prohibited by statutory enactment**

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).

**Section 31** is prejudice based qualified exemption and there is a requirement to articulate the harm that would be caused in releasing the requested information, as well as considering the public interest to ensure that withholding the information is the appropriate response.

### **Harm for Section 31**

The release of some contractual information specifically around contract description and supplier name and product used by PSNI, could reveal capabilities available to the PSNI and consequently give important information to terrorists and criminals. The release of this information combined with detailed information readily available on the internet, would allow terrorists and other criminals to identify the strengths and weaknesses of capabilities. They would be able to use information in planning terrorist and criminal acts. This would therefore both directly and indirectly impact on the prevention and detection of crime, the apprehension of terrorists and criminals and increase the fear of crime in the community PSNI seeks to serve.

### **Public Interest Test**

#### Factors favouring disclosure - Section 31

In times of public expenditure cuts the public have an interest in knowing how public money is being spent in ensuring value for money both at the point of purchase, and also in respect of what those resources are to be used for.

#### Factors favouring non-disclosure - Section 31

Disclosure of supplier identities and product information together with contract descriptions, would mean that individuals could research details about capabilities available to the PSNI. This may allow terrorists and criminals the opportunity to assess strengths and any possible weaknesses of these capabilities. This would compromise law enforcement which could lead to more crime being committed and individuals being placed at risk. It may also be used by criminals/terrorists in combination with other information they have gathered to try and disrupt law enforcement.

## **Balance Test**

Whilst there is a public interest in the transparency of monetary spend by the PSNI, there is a very strong public interest in safeguarding the integrity of police law enforcement capability and all of the information which assists with protection of the police infrastructure in being able to effectively deliver a policing service.

## **Decision**

As release of some contractual information could highlight capabilities available to the PSNI it is in the public interest not to release this information.

**Section 38** is a prejudiced based, qualified exemption which means the PSNI must demonstrate harm in disclosure and consider the balance of the public interest in releasing the information. A summary of the Harm and Public Interest Test for Section 38 is provided below.

## **Harm**

Detail in relation to supplier names and specific product descriptors have been withheld as releasing names would likely highlight the direct association of the supplier with the PSNI. Release of information under FOI is considered a release to the world in general, not just to the individual requesting the information. The threat of terrorism in Northern Ireland remains “severe”, this is particularly relevant to PSNI, its officers, staff and wider infrastructure.

## **Public Interest Test**

### Factors Favouring Release - Section 38

Releasing the information would promote openness and transparency. There is always a strong public interest in information that relates to the use of public funds and the procurement of services and suppliers.

### Factors Favouring Retention - Section 38

Releasing the details of PSNI suppliers and some specific product descriptors into the public domain may assist those intent on subverting law and order. The current terrorism threat level in Northern Ireland against PSNI is rated as ‘severe. There is a public interest in not making information about the PSNI infrastructure available which would assist those intent on causing harm

## **Balance Test**

Terrorist activity is a real and current threat in Northern Ireland and the PSNI has a duty of care to protect all individuals including those associated with it and who support its ability to carry out its law enforcement activity.

## **Decision**

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 release to the world in general, not just to the individual requesting the information.

Whilst accountability surrounding the use of public funds is always a strong argument in favour of releasing information, the balance will always favour retention where there is any risk no matter how slight to the safety of individuals. In this case, PSNI considers the balance of the public interest favours non-disclosure.

## **Section 44 (1)**

PSNI is also applying an exemption at section 44(1) (a) of the FOIA which exempts information where its disclosure is prohibited by other legislation.

*Section 44.—(1) states :*

*“Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—*

*(a) is prohibited by or under any enactment”.*

In this case PSNI holds information to which Regulation 15 of the Public Contracts Regulations 2015 applies. This Regulation provides an exemption from disclosure and protects confidential and sensitive information relating to awarded PSNI contracts. This is an absolute exemption and therefore PSNI has not considered a public interest test.

## **Request 2**

Can you also provide me with contact details of the person responsible for the actual contract's register or someone responsible for API?

[Name, Job Title, Telephone, Email Address]

At the very least provide me with their actual job title.

## **Answer**

The administration of PSNI contracts fall under various departments within PSNI, as set out in the spreadsheet provided, for example, HR, Estates, ICS and OHW. As such there are numerous contract owners, who have responsibility for individual contracts, within PSNI. However, the responsibility for the overall portfolio falls to Mr Mark McNaughten, T/Director of Corporate Services. Mr Mark McNaughten can be contacted via 028 9070 0951 or via email

[FSSSecretariat@psni.pnn.police.uk](mailto:FSSSecretariat@psni.pnn.police.uk).

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

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