



# FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-00786

**Keyword:** Crime

**Subject:** Victims of Modern Slavery/Human Trafficking Working in Fishing

**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 that some of the information you seek in your request is exempt by virtue of sections 40, 38 and 31 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**

Could you please provide me with the total number of people identified by the PSNI as victims of modern slavery/human trafficking working in the fishing industry for the years 2019, 2020, 2021, and 2022? Could you please divide the data by the nationality of those identified?

**Answer**

Please see table below:-

Year	Numbers
2019	1
2020	0
2021	1
2022	4

**Note**

The National Referral Mechanism (NRM) is a framework for identifying victims of trafficking and ensuring that they receive the correct support. The PSNI, Modern Slavery and Human Trafficking Unit (MSHTU) received referrals from Potential Victims of Human Trafficking (PVoT) (see table above) who have been recovered in Northern Ireland having alleged exploitation within the fishing industry.

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 40(2)(a)(b) by virtue of 40(3)(A)(a) Personal Information – Information constitutes personal data and disclosure would contravene any of the Data Protection principles

Section 31(1)(a)(b – Law Enforcement – Information which would be likely to prejudice (a) the prevention or detection of crime.

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.

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 40**

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA') Third party personal information constitutes 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. I have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As this information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed in a lawful and fair manner. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation. This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and PSNI has made the decision to withhold that information.

### **Section 31**

Section 31(1) Law Enforcement - Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

### **Section 38**

Section 38 (1)(b) 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.

### **Harm**

PSNI considers release of the information in this request which relates to the nationalities of individuals could compromise their safety. A disclosure under FOI is considered a release to the world in general and not just to the applicant 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.

#### Factors Favouring Release - Section 31

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve and there is a public interest in the transparency and effectiveness of the tactics used to achieve this. Release of the information may reassure the public that PSNI are effective in this area.

#### Factors Favouring Retention - Section 31

Disclosure of this information could compromise the tactics and PSNI's law enforcement abilities that are used to prevent and detect crime and apprehend offenders which could potentially lead to more crime being committed and individuals being placed at risk. There is a strong public interest in the PSNI being able to protect investigations and details of this nature may be used by those involved in criminal activities in combination with other information they have gathered to try and evade detection.

#### Factors Favouring Release - Section 38

PSNI considers the public interest factors favouring release in this case are generic. It could lead to the public being better informed and could show transparency and accountability within PSNI.

#### Factors Favouring Retention – Section 38

To release details of nationality may place and endanger these individuals and put them at risk and is not in the public interest. The detailed information could put these people at further risk of harm.

#### **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.

The Police Service will not disclose information that may put individuals' lives at risk as their safety is of paramount importance. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities they serve, therefore not disclose information that may put persons at risk is important. Whilst the PSNI would always wish to be transparent and accountable, there is a very strong interest in protecting any individual.

The PSNI considers that the factors favouring withholding the information are stronger than those in favour of disclosing the requested information. PSNI must ensure that the health and safety of individuals is paramount. It is acknowledged that wherever possible policing must be transparent and accountable.

However, police need to make balanced judgements which justify why some information needs to remain exempt and unpublished. We have therefore determined that the release of the nationalities of those involved into the public domain would not be in the public interest.

#### **Partial NCND**

In addition to the response provided above, 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** - confirmation or denial would likely prejudice information directly or indirectly supplied to the public authority by, or

relates to, any specified bodies.

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)

### **Exemptions explained**

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

#### **Section 23(5) – Information supplied by, or relating to, bodies dealing with security matters**

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.

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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at [www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/](http://www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/)

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 their 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.