

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-02583

Keyword: Organisational Information/Governance

Subject: Police Informants

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act 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. In relation to Request 2 and Request 3, PSNI are issuing a Neither Confirm nor Deny (NCND) response and will explain this further below. 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 calendar years 2016, 2017, 2018, 2019, 2020 and available data for 2021, please state how much the police force has spent on informants. Please provide a breakdown by year.

Answer

2016/2017 - £271,387

2017/2018 - £287,290

2018/2019 - £309,515

2019/2020 - £433,080

2020/2021 - £343,006

Please note: PSNI record monetary figures by financial years and not calendar years. Therefore the information provided above has been broken down into financial years.

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: The duty to 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 to the public authority by, or relates to, any of the bodies specified in subsection (3)

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.

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.

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>

Exemptions explained

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest in this case. Confirming or denying the existence of whether any other information is held would contravene the constrictions laid out within Section 23 of the Freedom of Information Act 2000 in that this stipulates a generic bar on disclosure of any information applied by, or concerning, certain Security Bodies.

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.

Harm – Section 24(2) National Security

Providing any notice that confirms or denies the existence of specific policing operations would make these security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infrastructure of the UK and increase the risk of harm to the public.

Public Interest Test

Section 24(2) National Security

Factors favouring complying with s(1)(1)(a) confirming that information is held

The public are entitled to know how funds are spent and resources distributed within an area of policing. To confirm whether any further information exists would enable the general public to see where funds are allocated in order to prevent crime. It would demonstrate that payments made to CHIS are done in line with RIPA legislation and local force policies and procedures.

Factors against complying with s1(1)(a) neither confirming nor denying that information is held

Taking into account the current security climate within the United Kingdom, no information which may aid a terrorist should be disclosed. To what extent confirmation or denial may aid a terrorist is unknown, but it is clear that it will have an impact on a force's ability to monitor terrorist activity.

The public entrust the Police Service to make appropriate decisions with regard to their safety and protection. The only way of reducing risk is to be cautious with what is placed into the public domain and in some circumstances such as these, confirmation or denial that information is held.

The cumulative effect of terrorists gathering information from various sources would build a picture of vulnerabilities within certain scenarios. The more information disclosed over time will provide a more detailed account of the tactical infrastructure of not only a force area but also the country as a whole. Any incident which results from such a disclosure would by default affect National Security.

Request 2

For the calendar years 2016, 2017, 2018, 2019, 2020 and available data for 2021, please state how much the police force has spent on informants in relation to Black Lives Matter. Please provide a breakdown by year.

Request 3

For the calendar years 2016, 2017, 2018, 2019, 2020 and available data for 2021, please state how much the police force has spent on informants in relation to environmental groups and environmental protests. Please provide a breakdown by year.

Answers

In accordance with the Act the Police Service of Northern Ireland can Neither Confirm Nor Deny that it holds the information you have requested in Request Numbers 2 and Request 3.

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;

Section 24(2) National Security

Section 30(3) Investigations by virtue of Section 30(2)

Section 31(3) Law Enforcement

Section 38(2) Health and Safety

Section 40(5) Personal Information

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.

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

Exemptions explained

Sections 23 and 40 are class based absolute exemptions and there is no requirement to evidence the harm or consider the public interest.

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying information exists is the appropriate response.

With Sections 31, 24 and 38 being prejudice based and qualified there is a requirement to articulate the harm that would be caused in confirming or not whether information is held as well as carrying out a public interest test.

Harm

Any release under FOIA is a disclosure to the world, not just to the individual making the request. To confirm or not that information is held pertinent to this request would reveal whether or not PSNI has received intelligence on a specific subject area from Covert Human Intelligence Sources (CHIS) as well as confirming whether or not these CHIS have received monetary gain for their intelligence.

Police forces work in conjunction with other agencies and information is freely shared in line with information sharing protocols. Modern-day policing is intelligence led and this is particularly pertinent with regard to both law enforcement and national security. The public expect police forces to use all powers and tactics available to them to prevent and detect crime or disorder and maintain public safety. In this case the use of CHIS with regard to Extinction Rebellion and Black Lives Matter.

The prevention and detection of crime is the foundation upon which policing is built and the threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The current [UK threat level](#) from international terrorism, based on intelligence, is assessed as substantial which means that a terrorist attack is likely.

In order to counter criminal and terrorist behaviour, it is vital that the police have the ability to work together, where necessary covertly, to obtain intelligence within current legislative frameworks to assist in the investigative process to ensure the successful arrest and prosecution of offenders who commit or plan to commit acts of terrorism.

To achieve this goal, it is vitally important that information sharing takes place between police officers, members of the public, police forces as well as other law enforcement bodies within the United Kingdom. Such action would support counter-terrorism measures in the fight to deprive terrorist networks of their ability to commit crime.

The impact of providing information under FOI which aids in identifying whether or not PSNI has received intelligence from CHIS relating to Extinction Rebellion and BLM, as well as confirming whether payment was received for the intelligence, would provide those intent on committing criminal or terrorists acts with valuable information as to where the police are targeting their investigations.

In addition, to confirm or deny whether information is held in this case has the potential to undermine the flow of information (intelligence) received from CHIS as well as members of the public into the Police Service relating to these types of offenders thereby undermining National Security and leaving the United Kingdom at risk of more terrorist attack.

Public Interest Test

Factors Favouring Confirmation or Denial – Section 24 (2)

The public are entitled to know how public funds are spent and resources distributed within an area of policing, particularly with regard to how the police investigate terrorist offending. To confirm whether or not information exists would enable the general public to hold (force name) to account in relation to how they gather intelligence within areas of policing.

Furthermore, confirming or denying may improve public debate and assist the community to take steps to protect themselves.

Factors Against Confirmation or Denial - Section 24 (2)

Taking into account the current security climate within the United Kingdom, no information which may aid a terrorist should be disclosed. To what extent this information may aid a terrorist is unknown, but it is clear that it will have an impact on a force's ability to monitor terrorist activity.

The public entrust the Police Service to make appropriate decisions with regard to their safety and protection. The only way of reducing risk is to be cautious with what is placed into the public domain.

The cumulative effect of terrorists gathering information from various sources would build a picture of vulnerabilities within certain scenarios, as in this case which forces have received intelligence from CHIS' relating to this subject area. The more information disclosed over time will provide a more detailed account of the intelligence received into the force relating to these types of protests.

Factors Favouring Confirmation or Denial – Section 30 (3)

Confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that PSNI robustly gather intelligence received into their force from confidential sources, relating to protests. This fact alone may encourage individuals to provide intelligence in order to assist with investigations and would also promote public trust in providing transparency and demonstrating openness and accountability into where the police are currently focusing their investigations.

The public are also entitled to know how public funds are spent.

Factors Against Confirmation or Denial – Section 30 (3)

Modern-day policing is intelligence led. To confirm or not whether PSNI has received intelligence from a confidential source (CHIS) relating to Extinction Rebellion/BLM could hinder the prevention and detection of crime and undermine any ongoing investigations, by restricting the flow of information into the force.

Factors Favouring Confirmation or Denial – Section 31 (3)

The fact that the [Police Service use CHIS](#) to assist in the delivery of effective operational law enforcement is published and that in itself favours disclosure.

Factors Against Confirmation or Denial – Section 31 (3)

PSNI has a duty of care to the community at large and public safety is of paramount importance. If an FOI disclosure revealed information to the world (by citing an exemption or stating no information held) that would assist an offender, such an action would undermine the security of the national infrastructure, by revealing our 'intelligence' thereby highlighting vulnerabilities force by force.

By its very nature, by confirming or denying this information is held would undermine the effective delivery of operational law enforcement. 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 members of the public, police officers, other law enforcement agencies and their employees.

Factors Favouring Confirmation or Denial - Section 38

Confirming whether information is or isn't held would provide reassurance to the general public that PSNI use tactical options with regard to the use of Covert Human Intelligence Sources as a means of acquiring intelligence. This awareness could be used to improve any public consultations; debates in relation to this subject and also allow the public to take steps to protect themselves.

Factors Against Confirmation or Denial – Section 38

Confirming or denying that information exists could lead to the loss of public confidence in PSNI's ability to protect the wellbeing of individuals recruited as CHIS as well as members of the community at large.

PSNI has a duty of care towards any individual who has been recruited as a CHIS. To reveal information via an FOI request which would place the safety of individuals in grave danger, is not in the public interest.

Decision

The points above highlight the merits of confirming, or denying, whether information pertinent to this request exists. The security of the country is of paramount importance and the Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. As part of that policing purpose, various operations with other law enforcement bodies may or may not be ongoing. The Police Service will never divulge whether or not information is held if to do so would place the safety of individual(s) at risk or undermine National Security.

Whilst there is a public interest in appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding National Security. As much as there is a public interest in knowing that policing activity is appropriate and balanced in matters of National Security, this will only be overridden in exceptional circumstances.

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 any information that is released. Confirming or denying whether information is or isn't held would definitely reveal policing activity and would assist those intent on causing harm. Any incident that results from confirmation or denial would, by default, affect National Security.

Therefore, at this moment in time, it is our opinion that for these issues the decision for confirming, nor denying, that information is held with regard to Request Numbers 2 and 3.

No inference can be taken from this refusal that information does 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 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.

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/

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

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